CRIME & SEX IN ANCIENT INDIA

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PREFACE

Man has an innate tendency to commit offence Some do so out of natural propensity, some act under the influence of liquor or environment while others are compelled by economic necessity It is by education and good association that the mischievous instinct is sublimated

As in other countries, in ancient India, too, some people used to commit offences of various kinds The social leaders and law-makers provided for suitable punishments The nature of the acts of commission and omission was not very much different from what it is to-day Human nature has been basically the same throughout ages Theft, murder, non-repayment of debt, boundary disputes, selling others' goods as one's own—these and other offences were there in ancient Indian society too

In punishment, however, there were certain peculiarities in ancient India The idea of sin attached to many offences so that a wrong-doer, besides suffering punishment, inflicted by the king, had also to perform expiatory rites For example, a thief, who stole gold belonging to a Brāhmana, committed a grave sin For him not only punishment by the king was prescribed , he had also to atone for the sin involved

The gravity of an offence was determind by the following factors motive, caste of the offender and that of the aggrieved person, status etc Discrimination depending on castes is not there in the modern law As at present, in those days also the degree of punishment was determined by the consideration of the sex and age of the offender

Some offences, mentioned in the *Indian Penal Code*, are absent in ancient India Though rebellion or sedition is mentioned, yet offences relating to the army, e g an ordinary man's putting on military dress or stealing that

dress are not mentioned The provisions regarding unlawful assembly, which requires punishment for forming a group of five or more persons for defying law, offences regarding election—about the punishment for these offences there is no provision in ancient India The majority of the offences of the *Indian Penal Code* is mentioned in the ancient treatises

We propose to give here an idea of the outlook of the ancient Indians on crimes—whether death-penalty was regarded as proper, whether a person was allowed to commit suicide etc —and various other questions relating to the matter The *History of Dharmaśāstra* by Kane is too erudite and exhaustive for the general reader

Ancient India advocated four ends of human life, viz *Dharma, Artha, Kāma* and *Moksa* Regular *Śāstras* were formulated to discuss them In our treatment of crimes, we have utilised the *Dharmaśāstras* and the *Arthaśāstra* In dealing with sexology, we have taken the help of the erotic science Many educationists, both eastern and western, think that in order to build up a healthy society there should be provision for sex-education of students, the sexual awareness and urge are an essential part of human nature At a particular time, this instinct must agitate the mind of men and women It is just at that time that they require sex-education and guidance Otherwise, they are likely to go astray, and prove to be harmful to the society The great difference between an educated and uneducated man is that the former, before reaching the threshold of life, gathers experience by which, as he enters into the hall of life, the dark recesses are illuminated The uneducated, however, move about aimlessly in that darkness and are likely to get into pitfalls or suffer on slippery ground The same remark applies to sexual life Natural urge, unhealthy influence of a section of the society, obscene pictures of the cinema, picaresque literature, ribald books—all this leaves a deep imprint on the impressionable mind of the young people Being inexperienced, they are led astray This causes serious damage to their personal, family and social life

According to social custom, in most families, the curiosities and questions relating to sex-life in the mind of the young cannot be talked about with the superiors. The result is that they take their companions into confidence Consequently it is the blind that lead the blind. Those who are shy do not speak out their minds to anybody and suffer from inhibition Some, under the sexual urge, even run mad, fall victims to mental disorders or go astray

The natural sexual urge can be guided through proper channel by real knowledge of sexual science Some people become unhappy due to sexual maladjustment in married life Such couples sometimes suffer from mental diseases or snap their marital tie

Those who marry at a premature age are likely to think that marriage provides an opportunity for freely gratifying the sexual urge Another attitude too is harmful Many youngsters think that man is predominant so that he need not try to understand his partner's mind in sex-life nor is it necessary to have a consideration for her feeling or reaction Erotic science will convince them that man and woman are but two flowers in the same stem They will learn that sexual gratification is not the sole object of marriage In the words of Kālidāsa, the husband and wife are *parasparena sprhanīyaśobha*, the beauty of one is covetable to the other This beauty is not merely of the body but of the mind too

Some works on sexology are available in English. But, while some are suitable for western society, others deal with certain aspects only Meyer's *Sexual Life in Ancient India* lays greater stress on the literary aspect of sexology than on the science Chakladar's work is based on Vātsyāyana Bhattacharya's book seeks to give a re'sume' of the extant works on the subject

We have tried to present a picture of sexology as we have it in the works on erotic science and the sexual life reflected in works in Sanskrit, Pāli and Prākrit Rudiments of genetics contraception and abortion, available

in Āyurveda, have also been included We have given an outline of erotic motifs delineated in sculpture and painting

It is our plan to present the views of ancient thinkers as objectively as possible This will enable the reader to make a comparative study of the modern theories on the subject. The author does not believe that whatever is in ancient works is infallible Nor does he subscribe to the view that all that is old is not good In the words of Kālidāsa, the wise examine the old and the new before accepting or rejecting the one or the other

We have dealt with Criminology and Sexology against the social setting

Under Criminology we have included Prostitution which is not itself a crime, but a number of crimes are associated with it

In one Appendix we have listed the offences and the corresponding punishments

In a Glossary we have given the technical terms relating to the above two branches of study

In conclusion, it is the author's most pleasant duty to express gratitude to the earlier workers in the field The works from which considerable help was derived are Kane's *History of Dharmaśāstra,* M. Ghosh's *Glimpse of Sexual Life* etc , Kangle's *Kautilīya Arthaśāstra,* III (A study), S K De's *Treatment of Love in Sanskrit Literature, Ancient Indian Erotics and Erotic Literature,* N Bhattacharya's *History of Indian Erotic Literature* etc

Sri S. Mitra of Naya prokash deserves thanks for his love of ancient Indian wisdom, demonstrated by his undertaking the publication of this work.

May a persual of this book make the personal life of people more beautiful, social life healthier ! *Sarve sukhinah santu*—with this prayer the author stops

S. C. Banerji

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INTRODUCTION

In a sense, every man has a split personality He has good as well as evil propensities In modern times, man is presumed to be basically good It is believed that he resorts to evil due to the influence of environment or the pressure of circumstances If there is no sublimation of primitive instincts of man by proper education and training he acts like a beast, and takes to antisocial activities

In ancient India, the leaders of the society used to think deeply about ethics for the proper conduct of a man in his personal, family and social life Many rules and regulations were framed in the *Mahābhārata,* Smrti, and other Śāstras as well as in the works of Classical Sanskrit literature Many works of the Pāli, Prākrit and Apabhramaśa literatures also contain such rules and regulations Though there are differences among various sects like the Śākta, Vaisnava etc , there is little fundamental difference The same remark applies also to the Hindus and Bauddhas

In Dharmaśāstra etc the word *Pāpa* (sin) has been frequently used *Pāpa* arises in two ways, viz , the omission of what is ordained and the commission of what is prohibited *Pāpa,* in its wider sense, includes both sin and crime By sin we generally understand such activities as are supposed to be against the will of god and the result of which is obtained by the sinner personally

Those who are atheistic say that sin is the transgression of conventional rules relating to one's personal life. For example, it is sin not to respect one's parents , this does not affect the society The person concerned is responsible for such conduct for which he may suffer.

Crime is antisocial and antigovernment By this one violates the law The king does not punish a man for his sin, but he does punish one for a crime In Hindu scriptures there is provision for expiation of sin Certain atonements are prescribed even for washing off the guilt resulting from crime Certain acts, which were not criminal but antisocial were also punishable

Maine in *Ancient Law* (Chap 10, 3rd Ed 1866) says (page 376) that, in ancient countries like Greece, Rome etc jurists paid more attention to the remedy of a wrong committed by a person than to the punishment for crime In English terminology it comes under law of torts If a person is injured by another, he may obtain financial compensation by suing the accused in a Civil Court This principle, however, was not applicable in the case of ancient Indian law For certain offences the king would punish the offender *suo moto* In serious offences like theft, adultery etc, the Smrti has provided not only for damage payable by the offender but also for fines As instances we may refer to Yājñāvalkya (II 222), Kātyāyana (787) etc In these verses there are provisions for punishment of the accused for causing physical pain to others or for mutilating their bodies Besides, there is provision for the payment of medical expenses to the person injured and of solatium to him In *Āpastamba Dharmasūtra* (I 9 24 1, 4), there is provision that the murderer of a Ksatriya shall have to give 1000 cows as compensation to the family of the person killed and a bull as atonement To reconcile Manu (XI 127) and Yājñavalkya (III 266), however the commentator Haradatta says that both the cows and the bull are meant for expiation The Penal Code of Ancient India generally states 18 kinds of disputes. These are as follows non-repayment of debts, deposit, sale of an article by one who is not its owner, partnership business, non-delivery of a thing promised, non-payment of wages, breach of contract, dissatisfaction over sale and

purchase, quarrel between the owner and keeper of cattle, boundary disputes, abuse and assault, theft, *Sāhasa* (see *infra*), abduction of a woman, gambling, animal-betting, mutual duty of wife and husband, partition

Of the above, the following five are crimes in modern terminology abuse, too severe punishment, theft, abduction, and *Sāhasa*

In this connection, something should be said about vices (*vyasana*) The word *vyasana* has this derivative meaning—that which leads a person astray from his duty

Manu divides (VII 47-48) vices into two classes, viz arising out of passion and arising out of anger Those arising from passion are hunting, dicing, day-sleep, slander, illicit sexual relation, drinking, dance, song, instrumental music, loitering These offences, excepting illicit sexual relation, are not punishable by the king Those arising out of anger are *paiśunya* (discovery of unknown fault) *Sāhasa*, *Droha* (murder through a ruse) Jealousy, animosity, taking away others' money, abuse, severe punishment Of these, the second, third, sixth and the last two are punishable under the law

Sāhasa has a wide meaning It includes violent and forcible acts before people, taking away public goods, an act done forcibly ignoring local prohibition and protests by people In accordance with its gravity it is of three kinds, highest, middle and the first

In Smrti the word *ātatāyin* has a special significance Though ordinarily meaning an enemy, it technically means the following kinds of mischievous people

An incendiary, poisoner, one who comes with a weapon to kill another, one who steals such a sum of money that the owner becomes unable to live, taking away

another's cornfield, abduction of another's wife According to some, one, who wants to kill another by Atharvanic magic and complains to the king about a person without his knowledge, also belongs to this class

The bibliography at the end of the book will help the readers who want to make profit by the wisdom of our ancients

CHAPTER I

SOCIAL BACKGROUND

For an account of the criminology and sexology of an age it is necessary to have an idea of the society in which these sciences developed So, here we shall deal briefly with the milieu

Ancient Indian society was dynamic and full of diversities. Nobody knows when civilisation dawned in India. Relics of the pre-Vedic Indus Valley civilisation are available in Mohenjo-daro and Harappa But, the script, used by the people in that age, has not yet been deciphered We do not know of any literature of that age So, it is not possible to make a full assessment of the thoughts and activities of those people

Vedic Age

The earliest record of this age is found in the *Rgveda* In it, however, we at once meet with the dawn of civilisation but not the twilight The civilisation, reflected in the four Saṃhitās, Brāhmanas, Āranyakas, Upanisads, Kalpasūtras and the other Vedāṅgas, may be broadly called Vedic.

The main characteristics of this age are as follows .

In comparison with the aborigines, the Aryans had a higher and refined culture. Their military tactics and weaponry were also of a higher order They appear to have defeated the *dāsas* and pushed them into the hilly regions. *Dāsa* probably denotes the dark-skinned non-Aryans This word was also used to mean servant or slave The non-Aryans often used to disturb and imperil the life of the Aryans A class of bandits, known as Panis, used to steal their cattle. The class of people, known as *Vrātyas,* used to create obstructions to sacrifices.

Though the society of this age was mainly rural, yet there is mention of cities too. The principal means of livelihood was agriculture. Cattle-rearing was connected with it. Among the animals, the cow was the most important. There were artisans and craftsmen like the goldsmith, blacksmith

etc There was the cultivation of such fine arts as dance, music etc. Usury appears to have been a lucrative business

Among the means of diversion were dicing, chariot-race, solution of riddles etc

Material prosperity was desired by the people Money was the most coveted thing It is stated that money makes even an uncouth fellow look handsome There are many references to trade and commerce

One should not, however, form too high an opinion about the morals of the Vedic people There are references to theft, robbery, abduction of women, adultery, murder, cheating, drinking etc

The people of this age used to believe in the existence of ghosts and spirits, exorcism, the use of talismans for various objects, and in omens and portents We find rites designed to bring others under control and cause harm to others The *Atharva-veda* is a repository of such beliefs and practices It contains many magical rites, charms for counteracting snake-venom etc In this age, women occupied an exalted position in the society

Epic Age

The popular epics, *Rāmāyana* and *Mahābhārata,* originated as ballads perhaps before the discovery of scripts. Having been orally transmitted through ages these at last assumed written forms Even after that many changes and interpolations crept into them Thus, the society, revealed in the epics, does not represent a particular period, but a few centuries and a composite culture of the different regions

The *Rāmāyana* reveals two non-Aryan civilisations One was pro-Aryan ; it was the monkey-civilisation. The other, Rākṣasa, was anti-Aryan. The Rākṣasas were sensual, wild, violent and man-eaters

We find references also to tribes like Niṣādas, Śabaras etc

The Asuras (demons), hostile to Rākṣasas, used to indulge in various sinful practices

Women, known, as Apsarases, used to disturb the penance of the ascetics.

In the *Mahābhārata* society, we find considerable influence of Vaiṣṇavism and Śāktism Among them, devotion to the Vedic religion is rare The Buddhists and Cārvākas also preached anti-Vedic doctrines In this epic, many departures from the conventional Brāhmanical religion are noticeable Polyandry, as in the case of Draupadī, is an instance in point

Pauranic Age

The picture of the society in this age is multi-coloured In the Purānas, we find records of the rites and customs of the various sects, e g , Śaiva, Śākta, Vaiṣṇava etc Various tribes and foreigners, outside the Aryan society, appear in these works As instances may be mentioned the following Kirāta, Hūna, Pulinda, Pukkasa, Ābhīra, Suhma, Yavana Khaśa etc Among them the Bhāgavata religion of the Purāna was very popular

In this age, women and Śudras have been given freedom in many religious rites They were debarred from performing many Vedic rites

Among the Pāśupatas, certain practices, condemned in the society, were in vogue , e g nakedness, living in a cemetery, erotic gestures, violation of the duties of castes and stages of life They incorporated the foreigners into their sect Of them, the Kāpālikas were the most repulsive Wearing matted locks, garlands of bones, holding a blood-stained human head in hand, sacred thread made of hair—so fearful was their dress. They used to sacrifice human beings to gods and drink freely.

It appears that the impact of the political power of the Nandas, Mauryas, Andhras etc , dealt a heavy blow to the conventional Brāhmanical religion. They used to support Buddhism and Jainism to a very great extent

The Purānas reveal that the influence of Tantra gradually became deep in the society It spread mainly through the Vaisnavas and Śāktas *Madya* (wine), *Māṃsa* (meat), *matsya* (fish), *mudrā* (particular posture of hand) *maithuna* (sexual

intercourse)—these were the foundations of Tāntric rites. In course of time, these led to various lecherous practices

With the decadence of the Brāhmanical religion people embraced Buddhism in large numbers, and adopted Tāntric doctrines

Age of Dharmasastra and Arthasastra

The *Mahābhārata* is regarded as a Dharmaśāstra Many of its injunctions serve as guidelines of the society For the regulation of the society, a separate class of literature, known as Smrti or Dharmaśāstra, came to be composed It is based, to a great extent, on the Veda, Purāna, Tantra and the epics In criminology the role of this Śāstra will be discussed at the proper place

Kautilya's *Arthaśāstra* deals elaborately with various aspects of the society, from the political point of view. In some cases, this work casts conventional morality to the winds if it serves the interest of the state

Tantra

The origin of Tantra is shrouded in obscurity It is given the status of Śruti (revealed literature) like the Veda. Tāntric ideas existed in a remote age, as is evident from the *Atharvaveda.*

The main difference between the conventional Śāstras and Tantra is that while the former lay stress on rigorous self-discipline, teach ascetic morality and emphasise rites and rituals, the latter advocates the attainment of liberation through the gratification of the natural impulses, of course within certain limits Moreover, the rules and regulations about the castes and stages of life have been considerably relaxed in Tantra. Again, Tantra throws open the gates of religious performances to women and Śūdras who were denied the privilege of practising the Vedic religion as freely as men

In the present work, crimes are the main subject of study and not the punishments Incidentally some penal provisions have been discussed The torture of the criminal for getting his confession was in vogue in ancient India as it is to-day. Kautilya himself provides for this (4 8). It is ordained that

if there is a *prima facie* case, torture can be resorted to But, it is prohibited in trifling cases as well as in the cases of a minor, old person, a diseased person, lunatic, an intoxicated person, one afflicted with hunger and thirst, one tired by a journey or due to over-eating, one suffering from indigestion, a weak person, a woman in the family way, a woman within one month of delivery For women in general half the extent of torture, prescribed for men, is ordained A Brahmin, versed in the Vedas, and an ascetic are exempted , in such cases, the truth is to be ascertained through spies

Methods of torture were usually four , viz , beating with a stick for six times, seven lashes, hanging in two ways and pushing saline water into the nostrils with a pipe Among the methods of torture, Kautilya mentions the following: getting the person concerned stung by scorpions, burning his finger-joints If necessary, torture unto death is also prescribed (4 4 8).

Aiding an imprisoned criminal in his escape is punishable (Agnipurāna, 230 3).

The writers of Smrti have clearly ordained punishments According to Manu (vii 18) Danda (the punishing rod) rules over all, protects them, and keeps awake while others are asleep In fact, Danda is Dharma itself

Punishment should be inflicted after considering the time and place of occurrence, the criminals' capacity, learning etc (vii 16) The motive of the offender, his age, caste etc , were also to be considered The repeated performance of a crime was regarded as constituting a greater offence

It is laid down that if punishment is inflicted after proper consideration, the people become satisfied Otherwise, the people are agitated ; as a result, the kingdom perishes (vii 19). If punishment is not inflicted, anarchy ensues, the strong oppress the weak and nobody has mastery or ownership over anything (vii 20-21), the caste-rules are vitiated and all the Śāstric injunction reversed (vii 24)

Though the law-givers of India were firm in punishing the wrong-doer, yet they never allowed the person wronged

to take the law into his own hands. According to Yājñavalkya (ii 16) and Nārada (i. 46-SBE, 33, 17), if the aggrieved person tries to realise compensation from the offender without informing the king, he will not only not get it but will also be liable to punishment In all cases, however, this principle was not applicable According to the above authorities, as also Bṛhaspati (Manu viii 49, Nārada iv. 122, Bṛhaspati SBE, 33, p 329, verse 54), in the case of recovery of debt, if the debtor admits the debt, the creditor can, with the help of a law-court, realise his dues by persuasion, ruse or even force A deceitful practice, allowed to a creditor in such a case, is that the creditor, borrowing some ornaments from the debtor for some festival, does not return the same Again, a thing, given by the debtor to the creditor for delivery to another person, is appropriated by the latter Among other methods is squatting by the creditor at the door of the debtor, it is something like *Dharnā* of the present day Another method is that the creditor, so long as his dues are not realised, ties his own wife, son or cows in the house of the debtor Among forcible means is to keep the debtor as hostage in the house of the creditor or beating the debtor till the recovery of debt

These methods are permissible when the debtor does not seek legal relief in respect of the principal, interest etc But if even after his seeking legal relief, the creditor adopts any of the above methods, he will not only lose his claim but will also be liable to a fine equal to the amount claimed (Kātyāyana 589, Bṛhaspati SBE, 33, p 331, verses 63-65) In case of the debtor's denial of the debt, the creditor has no other alternative than filing a suit

In almost all ancient civilised countries, there was the principle of *lex talionis* or retaliation in the penal provisions There was the practice of taking an eye for an eye, a tooth for a tooth The revengeful attitude, underlying punishments, is clear in *Hammurabi's Code* of Babylon (C 2200 A D.), the *Twelve Tables* (table viii) of Rome and in the ancient Hebrew Law etc. Manu (viii 280), Nārada (Pāruṣya, V 25), Yājña-valkya (ii 215) and *Viṣnu-dharmasūtra* (V 19) provide that a low-caste offender, committing an offence to a Brāhamna, shall have the very limb with which he committed it, cut off

Another object of punishment was deterrent The idea was that the punishment should be such as to create a sense of horror in the mind not only of the criminal, but also among the spectators , this would prevent hte commission of such a crime According to Manu's conception (vii 25), the appearance of Danda is horrifying , it is dark and red-eyed Manu says (vii 22), it is due to the fear of Danda that all the world becomes enjoyable The very word Danda contains an element of fear It is formed from the root *dam* denoting restraint It is stated in the *Matsya-purāna* (225 17), *Agni-purāna* (226 16), Mahābhārata (Śānti XV 8) etc , that Danda restrains (from root *dam*) the turbulent and punishes (from root *dand*) the wayward It was to create a sense of horror among the people that, in ancient times, the executioners used to proclaim by beat of drums the fact that a criminal, sentenced to death, was being led to the place of execution For instance, we may take the case of Cārudatta, condemned to death for the alleged murder of Vasantasenā, and led to the gallows in act x of the *Mṛcchakaṭika* In the portion, following x 11, the executioner proclaims that similar punishment will be inflicted on any other person committing a similar crime According to Manu (ix 288), a prison should be near the highway Thus, the people, seeing the suffering of the imprisoned persons, would be deterred from committing a crime

Another purpose of punishment was to restrain the offender The idea was that if the criminal was kept confined, he would desist from anti-social activities at least for sometime Banishment also serves this purpose In this case, the offender would not get an opportunity of committing crimes for life

It should not be supposed, however, that reformation as a purpose of punishment was totally unknown to the law-givers The object of sublimation of the instinct of the offender is clear in the modes of expiation prescribed for certain criminals, besides physical punishment The very word *prāyaścitta* means the performance of penance with the certain knowledge of washing off sin

A historical study of the penal code of ancient India reveals that punishments were very severe in remote ages

With the passage of time they become lighter In the works of Yājñavalkya, Nārada, Bṛhaspati etc, the severity of punishments gradually diminished till at last these were reduced to mere pecuniary penalties The *Yājñavalkya-smṛti* probably covered the first two centuries of the Christian era The works of the other two were still later

According to the *Viṣṇu-dharmasūtra* (v I), death penalty is prescribed for offenders of all castes, except Brāhmaṇas, accused of grave sins Manu, however, ordains (ix 236) that death penalty will be inflicted only when the offender does not perform the prescribed expiation The relevant verse of Manu is, perhaps, posterior to the above *Viṣṇu-dharmasūtra*

In the *Arthaśāstra* corporal punishment is provided for various crimes besides theft Such offences are, for instance, entrance into a fort without permission, gambling, cheating, climbing a royal vehicle, sale of human flesh etc Corporal punishments were of various kinds ranging from the cutting of two fingers in a hand to capital punishment The alternative to all physical punishments, excepting death, was fine (4 10) It seems that, in remote ages, only physical punishments were ordained, and, with the advance of civilisation, these were replaced by fines

From the testimony of Megasthenes (C 1st quarter of the 4th cent B C) it appears that for perjury the hands and feet of the offender used to be cut off For causing loss of a limb to another, the offender had his corresponding limb chopped off Besides, his hands also used to be cut off For causing the loss of the hands and eyes of a craftsman the offender had to undergo death penalty (Fragment XXVII, p 71). The Chinese traveller, Fa-hien (405-11 A D), however, testifies to the absence of capital punishment There is no mention of other physical punishments either There was provision for fines varying with the gravity of the offence For repeated sedition, the offender had his right hand cut off (Legge, 1886, p 43)

According to Manu (iv 129), Yājñavalkya (i. 367), Vṛddhahārīta (vii 195) etc, punishment is fourfold, viz, mild reproof, harsh reprimand, fine and physical punishment It

appears from Brhaspati (SBE, 33, p 388) that the first two kinds of punishment were awarded by the Brahmin Chief Justice The last two were within the power of the king himself, of course with the approval of the judge

Physical punishments included imprisonment, beating, chaining the prisoner, torture, cutting of limbs and death A method of punishment was to disgrace the offender before people by any of the following means shaving the head, proclaiming the offender's crime by beat of drums after placing him before the people, taking the criminal round on the back of an ass, branding the criminal with marks indicating theft etc

As regards physical punishment, different limbs are prescribed for the members of different castes The following limbs of the non-Brahmins can be struck secret spot, belly, tongue, hands, feet, eyes, nose, ear, any limb According to some Smrti writers, the following limbs also may be struck neck, thumb, lips, hip, forehead etc (Manu viii 1251) For Brāhmana offenders no corporal punishment is prescribed For grave crimes he may be banished

It has been stated earlier that punishment should be inflicted after considering the time and place of the occurrence, the motive, capacity and learning etc, of the offender In the present-day criminology, there are two opinions According to one, the full responsibility of each individual rests in him alone According to another, it is held that the reasons underlying a crime are many, e g, physical, biological, social conditions, the mental state of the offender, his upbringing, environment etc The law-makers of ancient India did not pay very great attention to these factors

The extent of fines may range from one *Kākini* to all wealth belonging to the offender, the extent will be determined by the degree of the gravity of the offence

Punishments varied in accordance with the age, sex and caste of the offender Generally, the punishment for a woman was half that for a man In the case of an offence, which required the offender to die, a woman had her limb concerned cut off (Kātyāyana 487)

As stated above, the motive etc, of the offender was to be considered before awarding punishment The status of the offender was a factor to be examined Kautilya lays stress on the circumstances under which a crime was committed Medhātithi, commenting on Manu, and Vijñāneśvara, commentator of Yājñavalkya, say that, in all cases, the same punishment is not to be inflicted for a particular offence Each case should be considered with insight The sociological outlook played a great part in the matter The Smṛti works, however, do not reveal a very analytical examination of the psychological factors behind a crime as in the present day

In the *Daṇḍaviveka*, Vardhamāna says that the following factors are to be considered in the trial of an offender the caste of the offender, the thing concerned, the extent of the loss and the gravity of the injury, determination of the monetary value of the loss or injury, the real sufferer, the age of the offender, his learning and capacity both physical and financial, his merit, fault including the class of the offence and the consideration whether it is the first offence or a repetition

It may be added that, in ancient India, the attitude of the relevant royal department to the offender was more humane than that in the contemporary western countries[1]

It is not clear whether or not attempt at suicide was regarded as a crime There is, however, no doubt that it was legal in certain cases It is laid down in the *Gautamadharmasūtra* (xiv 11) that there will be no impurity (*aśauca*) of the kinsmen if one commits suicide by any of these means : fast, use of a weapon, fire, poison, water, hanging and fall from a precipice According to Atri (218-19), there will be a three-day impurity consequent upon the suicide of an octogenarian who is too weak to perform the acts of personal purification or is afflicted with an incurable disease In the *Aparārka* commentary *on the Yājñavalkya-smṛti*, it is held, on the authority of Brahmagarbha, Gārgya etc, that the following persons are allowed to retire from the world and kill themselves

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1 Vide H E Barnes *The Study of Punishment*, New York, 1939

by entering into water or fire or falling from a precipice one attacked with a fatal malady, too old a person, one who is devoid of all desires of the senses and one who has performed all the duties For such an action the person concerned incurs no sin, rather it is better than penance, because his life is useless The *Aparārka* and the *Parāśara-mādhava* (I, Part II, p. 228) approve this practice on the authority of the *Agnipurāna* According to Manu (vi 31) and Yājñavalkya (iii 55), a Vānaprastha, if a victim of an incurable disease or unable to perform his duties, is allowed to resort to this practice. A killer of a Brāhmana could court death by facing the arrows of an archer or entering into fire In course of time, such death came to be prohibited In the *Bṛhannāradīya Purāna* (Pūrvārdha, Chap 24. 16), it is included in *Kalivarjyas*. In the *Śudhi-tattva* (pp. 284-85, Jīvānanda's ed), Raghunandan says that suicide by entering water etc, is prescribed only for Śūdras and not for the three higher castes.

On the authority of the Veda, some hold that for one, aspiring after heaven, attempt at suicide is prohibited On Manu vi 32 Medhātithi states that, in this Vedic context, suicide has not been categorically prohibited In the *Vājasaneyī Sanhitā* (40 3) suicide is forbidden. In explaining it some hold that it is forbidden for one who is ignorant of the soul But, according to others, it is a taboo for all Suicide is decried in the *Uttararāmacarita* (iv. 3) and the *Bṛhadāranyaka Upaniṣad* (iv 4. 11) From the *Rājataranginī* (vi 1411), it appears that a royal officer was appointed to see if anybody commits suicide by fasting

From the cases of approved suicide it seems that ideas similar to mercy-killing, advocated by some modern thinkers, existed in those far-off ages too

Kautilya, however, denounces suicide as sinful According to him, the body of a self-killer shall be dragged along the road by a Candāla, and no obsequial rites for him shall be performed One, who tries to perform his obsequial rites, shall be regarded as degraded (4 7)

The Brāhmanas are exempted from death penalty If a Brāhmana commits a crime deserving capital punishment, his

head shall be shaved, his forehead shall be branded with the sign indicating that crime and then he shall be made to ride an ass and banished (Vrddha Hārīta, vii 191) In the *Mitākṣarā* commentary on Yājñavalkya, ii 270, the following signs are stated female organ in the crime caused by the violation of the chastity of the wife of one's preceptor, wine-shop in the crime caused by drinking wine, a dog's leg in theft, a headless trunk in the murder of a Brāhmana (Manu ix. 237. 240, *Visnu-dharmasūtra* V 4) The signs shall be put if the criminal does not perform the prescribed expiation It may be pointed out that the practice of branding a criminal prevailed in ancient Rome, and had been in vogue in England till 1699 A D In England, the signs used were as follows M for murder, T for theft etc[1]

According to some Smrti writers, instead of corporal punishment, the following punishments may be inflicted on a Brāhmana Confinement in a secret place, giving food just enough for subsistence, rearing of cows and other kinds of work not befitting a Brāhmana

According to the *Āpastamba-dharma-sūtra* (II 10 27 16-17), death-penalty is prescribed for Śūdras for the following crimes homicide, theft, forcible misappropriation of other person's land etc. For a Brāhmana, however, it is ordained that his eyes shall be covered throughout his life

All the writers, however, do not exempt a Brāhmana from death-penalty According to Kātyāyana (806), even a Brāhmana should be sentenced to dea h for the following crimes destruction of the foetus, theft of gold, killing a Brāhmana woman with a sharp weapon, murder of a chaste woman In the opinion of Kautilya (4 11), for the following crimes a Brāhmana should be killed by drowning forcible entrance into the royal harem, inciting a tribe or an enemy against the king, sowing seeds of dissension or causing rebellion in the kingdom or the army In the *Mrcchakatika,* we find that the Brāhmana Cārudatta was condemned to death for the alleged murder of

1 Vide Barnes, *Story of Punishment*, p 62

Vasantasenā The Pāli Jātakas, too, testify to the capital punishment of Brāhmanas for grave crimes[1]

As in modern times, in ancient India also there were differences of opinion about the propriety of death-penalty According to some, it should not be inflicted under any circumstances. Some used to think that this punishment could be inflicted in very limited cases The view of Kāmandaka (14 16) and Śukra (4 1. 93) etc, is that capital punishment is not ordained even in the gravest of offences excepting rebellion against the king

A dialogue between a king and his son, in the *Mahābhārata* (Śānti, Chap. 268), contains arguments for and against capital punishment, these remind one of up-to-date views of sociologists on the subject According to the prince, even for grave offences the punishment should be light If criminals like robbers are put to death, the innocent members of his family are subjected to great hardship He further says that if the criminal surrenders himself and swears that he will not repeat the crime, then he should be let off after expiation In reply to the son, the father says that, in ancient times, people were truthful, soft-hearted and polite In those times, the simple utterance of 'fie' would make an offender desist from a crime A mere reprimand was enough But, in Kali-yuga, things are different. In this age, offenders have to be punished physically and even put to death, because some people are not deterred even by the fear of death

There were various methods of killing an offender condemned to death, e g, use of poison, trampling under the feet of an elephant, killing with a sharp weapon, burning, drowning, impalement According to Manu (ix 276), for house-breaking the criminal was impaled after cutting off his hands In the opinion of Yājñavalya (ii 273), impalement was prescribed for the following offences keeping people as hostages, theft of elephants and horses, forcible murder etc According to Vṛddhahārīta (vii 202), this punishment was for the murder of a Brāhmana, a woman, child, cow etc.

2 Vide Frick *Social Organisation*, p 212

In accordance with the injunctions, contained in the *Dandaviveka* (p 20), death penalty may be twofold, viz *Śuddha* (pure) and *Miśra* (mixed) The former is of two kinds, viz, *avicitra* in which the criminal is beheaded with a sword, and *citra* or *vicitra* in which the offender is killed by impalement or burning In the *Miśra* type, the offender is put to death after cutting off his hands, feet or other limbs

As in later times, and even at present witch-hunting was in vogue in ancient India too According to Kautilya (4 4), those women who want to bring about clandestine illicit love with magical charms shall be banished If they cause harm to anybody, they shall be similarly punished It may be stated here that in England, even up to the earlier half of the eighteenth century, unfortunate old women were regarded as witches and were punished, even hanged to death [1]

According to Manu (ix 290) and the *Matsyapurāna* (227 183), a fine of 200 *Panas* is prescribed for the following offences use of charms for the destruction of others' lives, harmful magic, and rites for the appearance of ghosts and goblins This testifies to the fact that, in those times, punishments were sometimes inflicted for superstitions and blind faith How serious the cousequences of such superstitious beliefs could be can be inferred from the commentaries of Medhātithi and Kullūka equating a person, whose black magic has succeeded, with a murderer Banishment was the punishment of one who tried to do harm to others by using charms with roots of trees (Bṛhaspati SBE 33 p 361, verse 16)

In all cases, the fines realised from offenders were not credited to the exchequer Manu ordains (ix 243) that the fines realised from those who were accused of grave crimes should be thrown into the water for God Varuna or given away to a learned and pious Brāhmana Manu (ix 246-47) further provides that, in the kingdom of a king, who does not realise

1 Vide Stephen, *History of Criminal Law of England*, vol II, p 435, Lea, *Superstition and Force* (1878), p 425, Winternitz, Witchcraft in Ancient India, *Indian Antiquary*, vol 28, p p 71-83

fines from a very wicked offender nor confiscates his property, people become long-lived, get a bumper harvest and child mortality does not take place

As regards sexual life, ancient India considered *Kāma* (desire for wordly objects, particularly sex-enjoyment) as one of the ends of human life While self-restraint has been frequently enjoined, the disciplined enjoyment of sex-life has been ordained as a bounden duty In fact, one who does not marry is not a *grhastha* (householder) and is debarred from many rites and rituals As the mother is the source of all creatures, so all the *āśramas* (stages of life) depend on *gārhasthya* It was obligatory on the part of the parents to arrange the marriage of their daughters just when they were fit for sex-life In Tantra sexual union is considered to be one of the means for reaching the goal Prostitution appears to have been allowed under certain restrictions ever since Vedic times Aberrations in sex-enjoyment and sexual perversities are reflected in Sanskrit literature

CHAPTER II

CONCEPTS OF SIN AND EXPIATION

The word *Pāpa,* denoting sin, frequently occurs in Sanskrit works, particularly in those on *Smṛti* Even in the present materialistic age, this word is often used by the conservative people who conform to ancient tradition Generally speaking, *Pāpa* is that action which is supposed to enrage God, cause suffering in the next world as well as in this In Smṛti works, *Pāpa* is stated to arise from the commission of what is prohibited and the omission of what is ordained The consequence of *Pāpa* is suffered by the sinner himself But, crime affects other people and is more anti-social Herein lies the main point of difference between sin and crime In the introduction we have stated that, in some cases, the line of demarcation between sin and crime is very thin For example, the murder of a Brāhmana is both a sin and a crime

Pāpa is stated to produce a twofold effect On the one hand, it leads the sinner to hell and, on the other, it renders a man unfit for social intercourse like eating, drinking and entering into matrimonial relations

Prāyaścitta or expiation is ordained for washing off sins. There is difference of opinion as to whether or not both the above effects are destroyed by expiation Yājñavalkya's declaration is (Prāyaścitta, v 226) that expiation washes off sin committed unconsciously and that one who commits it consciously can be fit for social intercourse alone. Some, however, would insert 'a' before the word *vyavahārya* in Yājñavalkya's text, and explain the text to mean that the sin arising out of the conscious commission of sin is destroyed, but such a sinner loses eligibility for social intercourse.

The word *Prāyaścitta* is constituted by two components, viz. *Prāyas* and *citta,* the former meaning penance and the latter certain knowledge Thus, the entire word means the performance of penance with the definite knowledge of its

washing off sin The process, in which *prāyaścitta* removes sin, is likened to the process by which a piece of dirty cloth is cleaned by strong beating, application of alkaline substances and heating

Expiation is possible in the following ways proclaiming one's offence, repentence, penance and Vedic study The gift of cows etc is also a part of expiation The expiation of grave sins may extend over twelve years In certain cases, expiation unto death is ordained , e g , for the sin accruing from the conscious murder of a Brāhmana

Various misdeeds have been classified in accordance with the gravity of the offence The sins are chiefly divided as

Mahāpātaka—five kinds Murder of a Brāhmana, drinking of *surā* by a Brāhmana, theft of gold belonging to a Brāhmana, sexual intercourse with the preceptor's wife, association with any of the above

Atipātaka—three kinds Sexual union with one's mother, daughter or daughter-in-law; a woman's sexual intercourse with her son, father or father-in-law

Anupātaka—35 kinds. A wicked act against the king, perjury, kidnapping a man, sexual union with a maiden, friend's wife, wife of a son other than *aurasa*, aunt, mother-in-law etc.

Upapātaka—49 kinds. Cow-killing, adultery, marriage of the younger brother before the elder, usury for a Brāhmana etc.

CHAPTER III

WORKS ON CRIMES

Of the four ends of human life, recognised in ancient India, *dharma* occupies the first place *Dharma* consists in acts which, enjoined in the Veda, are conducive to welfare It is that which induces a man to perform beneficial acts In the works on Smrti, there are elaborate discussions about sins and expiation, crimes and punishments The Smrti literature is broadly divided into two classes, viz, old and new The extant works on oldest Smrti are called Dharmasūtras, these are written in the aphoristic style Of these, the principal works are those of Gautama, Baudhāyana, Āpastamba, Vaśistha and Visnu They originated roughly in the period between C 600 and 400 B C Many other Dharmasūtras are referred to in various Smrti digests and commentaries on old Smrti works

There is a large number of versified works on Dharmaśāstra Traditionally these are twenty in number In reality, however, the works in Sūtra style and in verse are much more namerous Of the versified works, those of Manu and Yājñavalkya are the most noteworthy and authoritative The extant *Manu-smrti* perhaps passed through different stages of development in the period between 200 B C and 200 A D

The *Yājñavalkya-smrti* probably originated in the first or second century A D or a little earlier The Vyavahāra section of this work is the most important in legal matters It contains descriptions of many crimes and corresponding punishments It is at once the Civil and Criminal Procedure Codes and Penal Code, as well as the Law of Evidence of ancient India Of the several commentaries on this work, Vijnāneśvara's *Mitākṣarā* (C 11th cent, latter part) is the most authoritative The *Vyavahāra-mārkā* of the Bengali Jīmūtavāhana[1] deals with the procedure of filing suits and judicial proceedings

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1 C later than 11th cent According to some, later than 13th cent Raghunandana (16th cent) has mentioned him

In matters relating to crimes, the *Nārada-smṛti* (C 100-300 A D) deserves mention. The *Kātyāyana-smṛti* (C earlier than 11th cent) also should be mentioned The *Bṛhaspati-smṛti* (200-400 A D.) is an important work in this connexion

On the basis of old Smṛti many Smṛti digests came to be composed in the different regions of India In these works, there are systematic discussions on various topics The digest-makers have cited many authorities, and have attempted to reconcile the apparently conflicting texts In the discussion on criminology, special mention is deserved by the *Daṇḍaviveka* of Vardhamāna (C. 15th. cent -middle)

The *Ṣaṇmukha-kalpa*, mentioned in connexion with theft, contains information about the methods adopted by thieves

Kauṭilya's *Arthaśāstra* (C 4th cent B C) is an invaluable work on criminology. It contains some information not found in Smṛti works It gives directions for some acts, for political purposes, which are condemned and even punishable in Smṛti

The *Śukranīti-sāra* (acc to some, 19th cent) and the *Kāmandakīya Nītisāra* (C 3rd or 4th. cent. A D) contain discussions on various crimes and punishments

Besides Smṛti and *Arthaśāstra*, various crimes are referred to in the *Ṛgveda* (C 2500 or 2000 A D), *Śatapatha* and some other Brāhmanas (in the period intervening between the *Ṛgveda* and the rise of Buddhism), *Aṣṭādhyāyī* of Pāṇini (C 4th cent A D), *Mahābhāṣya* (C. 2nd. cent B C.), *Rāmāyaṇa* (present form C 2nd or 3rd cent A D), *Mahābhārata* (C 4th cent. A D), some Purānas[1], particularly the *Agni* etc

In some prose, poetical and dramatic works also we get considerable information about crimes and criminals Of the prose works, noteworthy are Bānabhatta's (earlier half of the seventh cent A D) *Kādambarī* and *Harṣacarita,* Daṇḍin's (earlier half of 8th cent A D) *Daśakumāra-carita,* the

1 The lower limit of the date of composition or compilation of early extant Puranas is the eleventh cent A D

Vetālapañca-vimśati[1], *Śuka-saptati*[2], Jaina *Kathākośa* of unknown date, *Divyāvadāna* (C 1st cent A D), Vidyāpati's (14th.-15th cent.) *Purusaparīksā*.

Of the poetical works, mention may be made of Kalhana's *Rājataranginī* (middle of 11th cent), Bilhana's *Caura-pañcāśikā* (bet. end of 11th. cent and the first quarter of the 12th. cent) etc.

Among the dramas, mention may be made of Bhāsa's[3] *Cārudatta*, the *Caturbhānī*[4], Kālidāsa's *Abhijñāna-śakuntala* (C. 4th. cent A D) and Śūdraka's[5] *Mrcchakatika*

Some Pāli works contain information on the subject Of these, the *Jātakas* are the most noteworthy The following works are also relevant. *Vinayapiṭaka*, *Bhiksunī-vibhanga*, *Dhammapada* and its commentary, *Pātimokkha* etc

Some light is thrown by certain Prākrit works The most noteworthy works in this connexion is the *Gāthā-saptaśatī* of Hāla (C. 1st cent A.D, according to some, earlier than 3rd cent, A.D). The *Karpūra-mañjarī* of Rājaśekhara (9th-10th cent.) is a valuable work. The *Jasahara-cariu* (10th cent) and *Karakanda-cariu* (11th. cent), are also helpful.

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1. According to Hertel, Śivadāsa's version originated about 1487 A D
2. The version by Cintamani Bhaṭṭa is not, perhaps, earlier than the 12th. cent.
3. Variously assigned to periods ranging from the 5th cent. to the 11th
4. Dates of composition perhaps ranging between the third and the fourth cent. B.C.
5. Variously assigned to different periods between the second cent B C and sixth. cent. A D

CHAPTER IV

JUDICIAL PROCEDURE

The word *vyavahāra* has been used to denote a judicial procedure The word consists of the following components *vi* means various, *ava* doubt, *hāra* removal So, *Vyavahāra* means the removal of doubts about various doubtful matters The word also denotes popular custom or usage Legal transaction is also meant by it.

A judge is called *Prādvivāka* He is one who at first asks questions (*prād*) and then tries (*vivāka*)

In ancient India, not much fundamental difference is noticed in Civil and Criminal procedures There are, however, differences in details Bṛhaspati (C. 200–400 A D) appears to have, for the first time, distinguished between civil and criminal cases He has divided the eighteen titles of law into two classes The disputes, arising from monetary matters are 14 and those rooted in violence are 4 These four are abuse, too severe punishment or assault, murder and abduction of women, and are technically crimes

According to Yājñavalkya (Vyavahāra i 5), a case for trial arises when a person, wronged by another in a manner contrary to Smṛti rules or customs, lodges a complaint with the court.

A judicial proceeding passes through four stages, viz *Bhāṣā* (plaint), *Kriyā* (proof), *Uttara* (reply) and *Nirṇaya* (judgment)

Proof or evidence is threefold, viz document, possession and witness People of good conduct and respectable social status can be witnesses The following are unfit to be witnesses Woman, minor, old man, gambler, drunkard, lunatic, *Abhiśastaka* (see glossary), actor, heretic, forger, deformed in body Also disqualified are the following an apostate, a friend of both the parties, one connected with the disputed

money, one of the same profession as that of the plaintiff or defendant, enemy, thief, one who commits *Sāhasa* (see glossary), one known to be a liar, one deserted by friends No disqualification stands in the way of one being a witness in the cases of the following crimes adultery, theft, abuse, too severe punishment, *Sāhasa*

Generally the number of witnesses is not less than three. But, a single pious person, if desired by both the parties, may be a witness

In case of difference among witnesses, the evidence of the majority is acceptable If two groups of equal number differ, the testimony of the one containing more qualified persons will be accepted If both the groups consist of qualified persons, the evidence of the group consisting of men of higher qualification will be relied upon.

Perjury is punishable But, if a true statement is likely to lead to the death penalty of a member of any one of the four castes then the witness is allowed to give false evidence, A simple expiatory rite will wash off the sin resulting from the false statement (Yājñavalkya Vyavahāra V 83)

A few guiding principles in connexion with the administration of justice deserve mention According to Yājñavalkya (ii 2 21), when there is a conflict between two texts, *nyāya* or usage will prevail *Nyāya* is like equity of modern times

Another principle is this. If there is conflict between the injunctions of Dharmaśāstra and Arthaśāstra, the former will prevail (Yājñavalkya ii 2. 21) *Dharmaśāstra* teaches us that whose result is unseen, whereas Arthaśāstra teaches us what produces tangible result. Arthaśāstra does not mean the work of Kautilya, *Śukranīti* etc It includes such texts of Dharmaśāstra which contain injunctions leading to tangible result For example, Yājñavalkya ordains (i 13 352) that as the ecquisition of friends is better than that of gold and land, so attempts should be made to obtain the former If a man is made to win a case, he will be a friend of the king, but his defeat will make him an enemy In such a case, although fines realised from him will enrich the royal treasury,

yet the king should adopt such means as will lead to his victory. Yājñavalkya himself elsewhere provides (ii 1 1) that a king should try a suit according to *Dharma*, being free from anger and avarice In view of these injunctions, the king should follow the precepts of Dharmaśāstra and not those of *Arthaśāstra*

Ordinarily an accused cannot file a counter-complaint against the complainant so long as the case against him is not disposed of (Yājñavalkya ii 2 1) But, a counter-complaint is allowed in cases relating to abuse, too severe punishment and *Sāhasa* (Ibid ii 2 10)

There were some unions which had the power to try cases relating to their members These unions were called *Pūga, Śreṇī, Kula* etc

The king will conduct a judicial proceeding being accompanied by learned, truthful and pious Brāhmanas If the king, due to pre-occupations with royal duties, be unable to be present then he will appoint a virtuous Brāhmana as his representative.

In some inscriptions, grants and literary works the word *Dandapāśika* occurs[1] This word perhaps stood for the royal officer having the power of punishing culprits in a criminal case The word *Dandapāśika* occurs also in the *Pañcatantra* (2) and *Kathāsaritsāgara* (4) In the latter, it means guard The word *Danda-bhogika* is probably synonymous with *Danda-pāśika* The term *Dāndika* has perhaps been used in this sense[2].

The term *Dāśāparādhika*[3] perhaps denoted a royal officer who used to examine ten kinds of crimes In the cases of these crimes, the king probably initiated a judicial proceeding

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1 Palitana plate of Dharasena II (Gupta era 252) E I XI, p. 83 Valabhi grant of Dharasena (Do), I A 15, p 187 Laksmanasena's Grant, E I, XII, p 9 *Yasastilaka-campū*, I, p 50.

2 Chamba Inscription No 15, p 166

3 Nalanda plate of Devapala, E I XVII, p 32 Bhagalpur plate of Nārāyanapala, I A 15, p 304, p 306

suo moto According to Nārada[1], the ten crimes are . violation of royal orders, murder of women, confusion of castes, adultery, theft, a women's pregnancy caused by a person other than her husband, abuse and defamation, vulgarity, too severe punishment and abortion

Pradestr (Arthaśāstra i 12, ii 35 7, iv 1 1), according to Kane, means Police Magistrate He will be where *Gopa* and *Sthānika* reside A person at the head of five or ten villages is called *Gopa* (Arthaśāstra ii 35 7) *Sthānika* is the head of an urban ward or district The main duties of the *Pradestr* is to help the *Samāhartā* (Collector) in the detection and elimination of anti-social elements The *Gopa* and *Sthānika* will help the *Pradestr* in apprehending robbers and thieves It is the duty of the *Pradestr* to apprehend and try criminals in his own area He can punish the offenders The trial by the *Pradestr* was not like a regular sessions trial in the court

The evidences, stated earlier, are human In the absence of these, ordeals (*divya*) are ordained Yājñāvalkya speaks (Vyavahāra vii 95) of the following five ordeals balance, fire, water, poison and sheath As a specimen, the process of the fire-ordeal is given below

Nine circles are to be drawn on the ground The accused, with a hot iron ball in hand, will slowly pass from one circle to another till he reaches the eighth one From there he will throw the ball into the ninth circle If, even after this, there be no burn-mark on his palm, he will be declared innocent

In a dispute relating to debt, there is provision for sureties (Yājñavalkya, Vyavahāra iii 53) They are appointed for three purposes, viz production of the accused in the court, creation of confidence and the actual payment

As regards *grāmadosa* or offences committed by villagers, Manu provides (vii 115-117) that each village shall have a

1 Quoted in the *Smṛticandrika*, ii, p 28, *Parāśara-mādhava*, iii, p 44

head There will be a head over ten villages Over a unit of twenty villages there will be one head One hundred villages will have one One thousand villages will be under one man. Of them, each following shall be more powerful than the preceding one in the hierarchy If a village headman be unable to right the wrong done by a villager, he will bring it to the notice of the head of ten villages. On failure the latter will put up the matter before the head of twenty villages, and so on

A sane and salutary principle was that a decision should not be arrived at by merely consulting Śāstras , a trial without reason causes loss of *dharma* In such a case, a thief may be taken as honest and an honest person as a thief[1] As an instance, the story of Māndavya[2] has been cited A version of the legend is as follows The thieves, having kept stolen goods in the house of Māndavya, concealed themselves Being asked by royal officers as to the way by which the thieves escaped Māndavya kept silent The thieves were caught and, along with Māndavya, were put to death

The above legend reminds one of that connected with sage Kapila The horse for the Aśvamedha sacrifice of king Sagara was stolen at the instigation of Indra and kept in the hermitage of Kapila in the nether region The sons of Sagara, while searching for the horse, found it out there They took the sage as the thief

From the foregoing account of the judicial procedure and the procedure laid down by Bṛhaspati it is clear that the law-givers of ancient times had subtle intellect and a correct outlook It can be asserted that the judicial procedure of those times was not much inferior to that in modern times

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1 Vide Bṛhaspati quoted in the *Aparārka* comm on the *Yājña-valkkya-smṛti*, ii 1 Nārada also gives a similar direction (*Nārada Smṛti*) *Vyavahāra-mātṛka*, (i 42)

2 Vide *Mahābhārata*, Anusāsana, 18 46-50 , Adi 107 , *Arthaśāstra* (iv 8 12-modified)

CHAPTER V

OFFENCES RELATING TO MOVABLE PROPERTIES

Theft and Robbery

Movable properties include money, grains and various other things Of the offences of this class, theft is the most prominent.

That theft was of various kinds is clear from the words denoting thief. The main words are *Stena, taskara* (lit doer of that despicable thing which cannot be uttered), *pātaccara, granthi-bhedaka* or *-chedaka* (sort of pick pocket), *aikāgārika, moṣaka, pratirodhī, parāskandī, malimluca* (one who does a dirty thing), *dasyu* etc.

Theft consists in the unlawful destruction of one's right over a thing and the creation of the thief's own right In a gift or purchase another person's right is not illegally destroyed Herein lies the difference between theft and those modes of acquisition.

In social life, small reciprocal sacrifice of self-interest becomes necessary Gautama (*Dharmasūtra*, 12 25), Manu (viii 339), Yājñavalkya (ii. 166) etc hold that a member of any of the three higher castes does not commit any offence by taking the following things of others without their permission . grass, fuel, fodder, flowers for religious rites, trees, fruits of trees in an open space

According to the *Mahābhārata* (Śānti 165-11-13), Manu (xi 16-18), Yājñavalkya (iii. 43) etc, a Brāhmana or any other person, starving for three days, may take foodgrains from any place without committing any offence But even in such a condition a member of a lower caste is not allowed to take foodgrains belonging to a member of a higher caste without permission. According to Vyāsa, quoted in the *Smṛticandrikā* (i. p 175), a man in distress for want of food could steal food without being liable to theft He could take the food

at first from a man of the lower caste, then from one of the same caste and finally from one of a higher caste Manu (viii. 341) and Kātyāyana (822) provide that a traveller, whose stock of food has been depleted, was allowed to take the following articles with impunity two sugarcanes, two roots, two cucumbers or melons, five mangoes or pomegranates, one handful of dates, rice, wheat etc

In Smrti works, theft has been divided into many classes According to Manu (ix 256), thieves are of two kinds, viz *prakāśa* (open) and *aprakāśa* (secret) The following belong to the former class traders deceiving buyers by short weight, gambler, quack, one who bribes a royal officer, prostitute, deceitful mediator, maker of false articles, those earning livelihood by the knowledge of omens and portents, magic, palmistry etc, perjurer To the latter class belong those who move about with instruments for cutting holes into houses and whose abodes are unknown According to Vyāsa, quoted in the *Smrticandrikā* (ii p 318), they are of nine kinds One who taking advantage of a man's inadvertence relieves him of money, house-breaker, one who misappropriates the things of a traveller, a pickpocket, kidnapper of a man or woman, stealer of cows, horses and other animals.

In accordance with the value of articles, theft is threefold, trifling (e g theft of earthen-ware, seat, wood, leather, grass, cooked rice etc) ; middling (e g theft of cloth other than silk, amimals excepting cows and bulls, metals other than gold, rice, wheat etc. ; serious (e g theft of gold, jewels, silken cloth, kidnapping men or women, cattle, elephant, horse, money belonging to a Brāhmana or a temple) According to Yājñavalkya (ii 273), a stealer of elephants or horses should be impaled

It was an offence to aid a thief with food etc and to keep stolen properties

It was the duty of a class of officers to arrest thieves Kautilya ordains (II 13) that on officer, called *corarajjuka,* shall be responsible for making good the loss due to theft According to Kātyāyana, quoted in the *Aparārka,* it is the duty of an officer, intended for the purpose, to recover the stolen articles

from the thief and restore the same to the owner If the thief cannot be traced, it is the responsibility of that officer to pay the price of the stolen articles to the owner

In case of theft in a village, if there is no sign of the exit of the thief the responsibility of paying damages to the owner rests on the village headman If theft is committed in a forest or a grazing ground, and the thief is not arrested, the compensation will be paid by the owner of that forest or land If theft is committed beyond the inhabited area of a village but within the village boundary and there be no sign of the exit of the thief, all the village together shall pay the compensation It is like the punitive tax of modern times

Nobody is responsible for paying compensation for the theft of one's articles by ones' servants

According to Kautilya (4 10), besides fines imposed on a thief, his thumb and forefinger would be cut off For theft, committed for the second time, the fine shall be heavier and all the fingers of the thief shall be cut off For the offence in the third time the fine shall be still heavier and the thief's right hand shall be cut off Heavier fine in ordained for the fourth time besides death-penalty

The stealing tendency of the golsmith is notorious in all ages It is said that he steals the gold from the ornament even of his mother The same tendency is noticeable in ancient India too According to Manu (ix 292), the goldsmith is the worst of all cheats If his cheating is detected all his limbs shall be cut to pieces

On the art of theft the only available work is the *Sanmukha-kalpa* The means of keeping oneself invisible, fording a marshy land, controlling others etc are laid down in it

Besides theft, there are references to snatching money on streets, house-breaking, dacoity etc A class of dacoits was called *Mānava.* According to Meyer[1], they were originally

1 Vide *Uber das Wesen* etc , pp 339-40

uncultured Brāhmanas who used to steal, commit adultery and practised magic

In house-breaking, the investigating officer should enquire whether it was committed by insiders or outsiders or by both in collusion Various indications of it are stated in the *Artha-śāstra* (4 6 16-19).

In a case of theft, the alleged thief is to be interrogated before the owner of the stolen articles and the witnesses If a man appears from circumstantial evidence to be a thief, but denies the charge, various methods of torture are to be resorted to for getting his confession

Non-recovery of debts

It will be dealt with under offences relating to litigation.

Though money is a movable property yet we shall deal with it in a separate chapter, because of its special importance.

CHAPTER VI

OFFENCE RELATING TO MONEY

Non-recovery of Debts

The practice of lending and borrowing money and other things has been in vogue perhaps ever since the orgin of the human species Shakespeare's prohibition that one should neither be a lender nor a borrower is a pious one and not respected in real life The practice of lending money etc provided ample opportunities for disputes The lender and the borrower have mostly been at loggerheads

When a debt is repaid partially, the creditor should give a receipt , otherwise he shall forfeit his claim to the remainder

Non-repayment of a debt was at once regarded as a sin and a crime In such a case, there was provision for realising the creditor's due by selling off the debtor's property

If no time-limit is specified for repayment, a debt should be repaid as soon as the creditor demands it Even if the interest, being equal to the principal, ceases the debt should be repaid (Brhaspati, SBE, 33, p 328, verse 47) If the creditor, out of greed, does not accept repayment offered by the debtor, the latter may hand over the money to a third person , from that time on no further interest will accrue (Yājñavalkya ii 44)

According to Kātyāyana (580-84), on failure of the debtor to repay the debt, the creditor may try to realise it by keeping the debtor confined But a cultivator and royal officer cannot be kept confined at the time of their work (iii 11) In the opinion of Manu (viii 177), Yājñavalkya (ii 43) etc a debtor, unable to repay debt, shall do so in kind by working in the house of a creditor of the same or higher caste

A creditor, trying to recover his dues independently of a law-court, when the debtor denies the debt or seeks legal

relief, shall forfeit his claim and be liable to fine (Kātyāyana 589, Bṛhaspati, SBE, 33, p 331, verses 63-65) The creditor may try to realise his dues either directly or through another person The gimmicks of the creditor and the methods of harassing the debtor are as follows

> to borrow ornaments from the debtor on a festive occasion and not to return the same, not to deliver a thing, entrusted by the debtor, to the proper person, to call the debtor to the creditor's house and then to beat him or keep him confined, keeping the members of the creditor's family and his cattle tied in the house of the debtor and the fasting creditor's squatting at the former's door

If the debtor, after admission of his debt, and the creditor's adopting a lawful means of recovery, lodges a complaint with the law-court, he shall be fined (Manu viii 176, Yāj ii 40)

Surety

Suretyship is a very old practice A surety was called *pratibhū* According to Yāj (ii 53), sureties are appointed for three purposes, viz production of the accused, creation of confidence in the other party, and payment If a surety fails to produce the debtor at the appointed place and time, he will be liable to pay the promised amount Yāj (ii 53) holds that all sureties will be liable for damages unless the original person fails to do his duty due to an action of God or of the king

If, in the absence of the debtor, a surety has to repay the debt due to pressure from the creditor or oppression, the debtor shall be liable to pay him double the amount (Yāj ii 56) In the absence of pressure or torture, the debtor shall be liable to pay the exact amount paid by the surety In the case of the following, the debtor shall have to give three, four or eight times grains, cloth, liquid substance (Yāj ii 57)

Usury

The greed of man for money is insatiable It is a part of human nature to augment self-interest at the expense of others who are helpless and weak A debtor borrows money

when in distress Taking advantage of this the creditor charges an exorbitant rate of interest To curb this tendency the Debt Settlement Board was created An object of the present cooperative societies is to check too high rates of interest

The same motive made Smrti writers and Kautilya formulate rules that the interest cannot exceed the principal Kautilya (iii 11), Manu (viii 151), Yāj (ii 39), Kātyāyana (509) etc are unanimous on this point In modern times, this principle is designated Damdupat

When there is a condition of interest in kind, there is difference of opinion about the number or quantity of the thing to be given as interest According to *Gautama-dharmasūtra* (12 33) and Manu (viii 151), the things to be realised by the creditor shall never exceed five times of what was given; it applies to grains, fruits, wool, beasts of burden, ghee, milk etc According to some, the creditor's dues may be eight times or, in some cases, two times

There is divergence of opinion about the rate of interest. According to Kautilya (3 11), the lawful rate is $1^1/_4\%$ per month But, in reality or in business it shall be 5% per month But those who move through forests shall pay 10% per month and the maritime traders 20%. The high rate in the case of the last two is due to greater risk to their life and property caused by robbers, shipwreck etc. They may even die so that the debt will never be repaid

Those who realise a rate higher than the prescribed one or instigate the creditor to do so shall be fined Even a witness to such a transaction shall pay half the fine prescribed for the offender

CHAPTER VII

OFFENCES RELATING TO IMMOVABLE PROPERTIES

Ancient Indian economy was mainly agricultural So, a cultivable land was regarded as valuable It was a punishable offence to cause any harm to such a land or its produce

According to Yāj (ii 158), if a person, taking a land on payment of an advance, does not properly carry on cultivation shall be liable to give the owner the quantity of grains that would have grown by proper cultivation, besides paying fine and restoring the land to the owner

In connexion with *ātatāyins*, we have noticed that one who misappropriates a land is an *ātatāyin* The cause is not far to seek One, who depends on a land for foodgrains, will naturally be distressed for want of the land

Setu is twofold , that which is dug and that which prevents water from flowing out According to Yāj (ii 156) and Nārada (14 17), if a *setu* is made in an adjoining land, the owner of the latter cannot protest even if he has to sustain a little loss

Disputes over lands and boundaries were common Kātyayana (732) has stated six causes of land-disputes claim for more land, complaint that a person has right to a lesser area of land than that of the land possessed by him, claim for a part of the land, denial of another person's claim for a part of the land, possession of what was not in possession, boundary All these come under boundary dispute

According to Nārada, quoted in the *Mitākṣarā* on Yāj ii 150, boundaries are of five kinds . *dhvajinī* (indicated by trees like flagstaffs), *matsyinī* (marked by rivers or tanks full of fish), *naidhānī* (marked by things kept underground), *bhayavarjitā* (marked by the mutual consent of the parties), and that marked by royal order.

Sāmanta was among those who used to determine boundaries According to Manu (viii 263), Yāj (ii 153) etc a *Sāmanta* resorting to falsehood in a dispute is punishable. According to Manu (viii 257), other lying witnesses too are punishable Kātyāyana holds (750) that a witness who, though knowing everything, does not give evidence is a greater offender

Residence

In a city, one has to abide by municipal rules while building a house In a civilised society, one cannot cause harm to the interest and health of the neighbours by arbitrarily building houses, drains etc. In rural areas, too, there are some rules and regulations Thinkers of ancient India too were not silent or indifferent about this matter.

Nobody can deprive anyone of the customary privileges in respect of a house, water, bazar etc. Lawful protest is, of course, permissible if somebody wants new privileges

If a drain in one's house causes a little inconvenience to another, no objection should be raised by the latter if the drain has been working for a long time ; this is the opinion of Brhaspati (SBE, 33, p 34, verse 25). After the construction of a house, one should not make such windows, verandahs, drains etc as may cause annoyance or inconvenience to others. Brhaspati further states that latrines should not be made too near a neighbour's premises.

Road Tank Etc

A highway is variously called *saṃsarana, catuṣpatha, rāja-patha* etc Along such a road pass men and animals According to Kautilya and some others, the passing of excretions is prohibited on such a road Fines are prescribed for parking carts on such a road, planting saplings and keeping a thing causing obstruction

Though rendering a road unclean is punishable, yet it is not so in the case of the following persons .

A sick person, a pregnant woman, a child etc

According to Kātyāyana (758-59) the pollution of a tank by washing dirty clothes is a punishable offence

Trees

The ethical sense of the ancient Indians did not allow offence to trees and plants too They were conscious that they also have the capacity for feeling pleasure and pain Moreover, the sentiment of the person who plants trees etc was also to be respected In consideration of utility, sanctity etc Manu (ii. 227-29) and others have prescribed fines for the destroyer of of trees, branches, fruits, flowers etc.

According to the *Mitākṣarā* (Yāj ii 212), the offence arising out of damage to trees comes under *Daṇḍapāruṣya*

CHAPTER VIII

MISCELLANEOUS OFFENCES

Shirking Responsibilities

As in modern times, shirking responsibilities and deceitful work were present in ancient times also It is the practice of some to refrain from work after taking money for doing it In education such a tendency is very harmful, because, due to it a man's life is not properly formed and the result is social harm

In the *Matsyapurāna* (227 6) it is laid down that one, who, after accepting money, does not impart education in general or in crafts, shall be liable to pay as fine the entire amount received by him

Exploitation of Popular Beliefs

Some people used to dupe the gullible who believed in magical practices. In England, witchcraft was regarded as a punishable offence up to the eighteenth century A D According to Kautilya (4 4), the king should gather, through spies, information about those who declare themselves expert in bringing about clandestine union in love-affairs through charms and magic rites Such people and the witches deserve banishment According to Manu (ix 290), fine is to be imposed on those using charms and spells for destroying others' lives and taking recourse to harmful sorcery Bṛhaspati provides (SBE, 33, p 361, verse 16) for the banishment of those using charms with roots of trees and plants

Sedition

In all times and climes sedition was a fearful thing for kings In the *Arthaśāstra*, it is stated that, when the king is away in an expedition, there is the possibility of rebellion against him in his absence This rebellion may be of three kinds : *Abhyantra-kopa* ; in it the minister, priest, commander-in-chief and the prince conspire

Antara-mātya-kopa—in it there is a plot by the royal officers of the palace.

Bāhyakopa—it occurs at the instigation of an officer of an area outside the kingdom

If there is apprehension of insurrection, the king will take with himself whom he suspects, when he goes out on an expedition if the suspected person be of an internal region If he belongs to an external area, then the king will take the members of his family (9 3 9-33)

The king should take care that an officer of the capital connot revolt in collusion with an officer of the external region

The various motives and methods of rebellion are laid down in the *Arthaśāstra* (9 3 36-41)

Even a prince can be a rebel If there is such an apprehension, then, according to some, the king should try to curb him Some advocate the killing of the son by the king at his very birth Kautilya, however, opines that the king should arrange for the good training of the prince from his very boyhood so that he cannot revolt in future (1 17 22-39)

Deceitful Transaction

Kautilya has dealt with the deceitful practices (4 1, 4. 2) The trial of these offences was perhaps not done in law-courts It seems, such offenders used to be tried and punished summarily

Sahasa

It has been defined in the introduction According to Yāj (2 232124), the following seven offences are equivalent to *Sāhasa* breaking a sealed house, causing loss to a neighbour and a *Kulika* (a person of the offender's same family), deserting one's parents, son brother or sister who are not degraded, sexual union with a widow, the conscious defilement of a person by a Candāla, making counterfit coins, fraud in weights and measures, administering bad medicines to a royal servant or anybody else

According to Manu (viii 332), Yāj (ii 230) etc a violent crime in defiance of royal servants or in the presence of guards and the people is called *Sāhasa* The word is a derivative of *Sahas* meaning force *Sāhasa* differs from theft in that the latter is committed secretly and without force According to Nārada (17 2) and Bṛhaspati (SBE, 33, p 359, verse 1), it is of four kinds homicide, theft, rape of another's wife and abuse They have divided *Sāhasa* into three classes, viz ordinary (destruction, abuse, trampling fruits, roots, water, agricultural implements etc), middling (destruction of garments, food, drink and domestic utensils), gravest (killing with a weapon or poison, rape of another's wife and any act causing pain to a creature)

In the narrower sense, *Sāhasa* includes homicide, rape and robbery

According to Bṛhaspati (SBE, 33, p 363, verse 29), forcible homicide is punishable with death According to Manu (ix 241), a Brāhmin culprit shall be banished

Bribery

According to Kātyāyana (650-51), the realisation of money by the following means belongs to the category of bribes threatening to supply false information to prove that a man is a thief, adulterer etc , pointing to a dishonest man, spread of false rumour The difference from the law in modern India is that the person offering bribe is not punishable , the person through whom it is offered may be fined A royal servant, accepting bribe, is punishable but not any other person

Non-payment of Wages

An employer not paying the promised wages to the employed becomes punishable (Kautilya 3 13). He cannot employ another man within the time-limit for which he employs one The person employed shall also not work for another within the same limit Otherwise, both will be guilty

If the master does not pay the dues to a servant even after his doing the work, he shall be liable to pay the amount and a fine.

Non-performance of Work

If a hired servant, even after receiving wages, does not do the stipulated work, he shall return the money to the employer and pay double the amount as fine (Yāj ii 193) There is difference of opinion about the amount of fine According to Kautilya (3 14), besides paying fine, he will be compelled to do the stipulated work There will be no offence if the person does not do the work due to sickness etc

If a person promising to do a work, in exchange of a specified amount, goes away without completing it he will get no wage Again, if the employer dismisses him without any fault before the specified time, he shall be liable to pay the entire promised amount

According to Kātyāyana (660), the master dismissing a sick or tired servant in a journey will be punished

According to Yāj (ii 197), Nārada (ix 9) etc if a person, while carrying a thing, damages it he shall pay compensation to the owner

Non-returan of Hired Things

If an elephant or horse etc being hired, is not returned in time the hire up to the date of actual return must be paid (Kātyāyana 662-63) The same rule applies to hired houses and markets

Master and Servant

According to Bṛhaspati (SBE, 33, p 346, verse 17), if a servant steals something for the interest of the master, the master will be liable to damages In the case of animal-keepers, if an animal causes damage to crops the keeper himself will be responsible (Gautama S xii. 17). But Manu (viii 243) and Yāj (ii 161) hold that the master is responsible for the loss due to the fault of the keeper

If the slave of one serves another without his permission, the former can get him back (Nārada viii 40)

Prostitutes

In the *Matsyapurāna* (227 144-46), it is laid down that if a prostitute, even after receiving the fees, does not satisfy the giver of money, then she shall have to pay twice the amount to him and equivalent amount as fine to the king One who enjoys a prostitute, but does not pay the fee shall have to pay a fine

Non-service

If a person, promising to serve another, does not do so, he is punishable In the age of D S (e g Āpastamba ii 11 28, Gautama Xii 16-17), two kinds of people seem to have done so—a cultivator's labourer and the keeper of cows and sheep etc In the *Nārada-smṛti* (viii 2, 3), five kinds of such people are mentioned labourers of four types and the slave The four types are pupil, disciple, hired servant, supervisor of hired labourers

Work is of two kinds, conducive to welfare and not conducive to welfare The former is to be done by the labourers It is the duty of slaves to cleanse doors, roads etc , shampooing the master

Trainer and Trainee

If a trainee leaves the trainer without his permission, then he shall be compelled to stay up to the specified time, and punished with lashes or confinement But, if the trainer without teaching him the promised subject, makes him do other work, then the trainee may leave him and the trainer shall be fined

CHAPTER IX

OFFENCES RELATING TO PURCHASE AND SALE

Sometimes a dishonest trader does not, out of greed for greater profit, deliver a sold article to the purchaser According to Yāj (ii 254) and others, under such circumstances the seller is bound to give the thing to the buyer along with the profit obtained in the intervening period between the sale and acceptance by the buyer According to some, such a seller is also liable to fine

After sale if the seller does not give a thing to the buyer even after the latter's demand, the seller will be responsible for any damage or loss of the thing concerned

Punishable also is the buyer if he does not accept it after sale But, if the thing concerned has some defect or is spoiled due to an act of God or the king the buyer is not responsible

If after the sale of an article, the seller or buyer has repentance, then it can be returned within ten days of the sale After this period, neither party shall have any right Different authorities have fixed different time-limits for the return of different articles Threedays are fixed in case of certain articles The limit is very short in the case of a perishable article

If an article, sold to one, is again sold to another or if it is sold after suppressing a defect then the seller shall have to pay double the price to the buyer and an equivalent fine to the king (e g *Parāśaramādhava* iii p 370) There is no provision for returning the article if the buyer purchases it being aware of its defect

The above rules are applicable after the payment of the price by the buyer Neither party has any responsibility if there is mere contract and no financial transaction unless, however, there is a compulsive provision in the contract

If after the payment of earnest money, the sale does not take place due to the fault of the seller he shall pay double the earnest money to the buyer (*Parāśaramādhava* iii p 370)

According to Kātyāyana (692), the buyer is bound to return a thing sold by the following a lunatic, drunkard, one dependent on another, idiot etc

A thing purchased as a result of coercion or at a price much lower than the fair price, has also to be returned

Avakraya is a punishable offence According to some, it means the sale of an article by one with whom it is deposited According to others, it means the purchase of an article without price or at a partial price.

In the *Rājataranginī* (vi 41), a fraudulent transaction is stated In a deed of sale relating to a house, the purchaser bribed the scribe to include a well not intended by the seller. For this he was banished and his property was confiscated and given to the deceived seller

Sale of an article by one who is not its owner is punishable Such articles are an open deposit, a sealed deposit, a thing meant for another, a stolen property, a thing borrowed on a festive occasion, the lost article of an unknown person; the clandestine sale of these is punishable (e g Nārada vii 1), Brhaspati (SBE, 33, p 335, verse 2)

Yāj (ii 168, Nārada vii 2) ordain that the real owner can recover the article from the buyer The buyer is punishable if he does not purchase it in the open market. The buyer is punishable like a thief if he purchases it from any one of the following slave, one who has no right over the master's article, a rogue or hooligan The same punishment is prescribed for one who purchases it for a very low price at abnormal times like midnight (Yāj ii 168, Manu viii 202 etc If he purchases it in the open market or through ignorance, he has no liability, only the thing has to be restored to the owner The purchaser has no fault if he discloses the name of the seller and points out the original seller (Manu viii 4); otherwise, he will be punished like a

thief (Nārada vii 4). In such a case, the owner will sue the original buyer (Manu viii 201 Yāj ii 170). If the person sued loses the case, he shall pay the price to the buyer and fine to the king

A member of the owner's family, selling an article without his knowledge, shall be fined. But, an unrelated person doing so will be punished like a thief (Manu viii 198) This will be the punishment if the sale is effected through ignorance or consciously

If a person purchases a thing, in presence of traders and within the knowledge of royal servants, from one whose residence is unknown and if the seller dies after the sale, then the owner of the thing in question will take it back from the purchaser at half the price The principle is that it is an offence to purchase a thing from one whose residence is unknown The fault of the real owner is that he did not take proper precaution about his property (Kātyāyana 621-23, Brhaspati, SBE, 33, p 331-36, verses 7-9)

CHAPTER X

OFFENCES RELATING TO MORTGAGE

By mortgage (*ādhi*) is meant a land or an article kept, as security, with the creditor at the time of borrowing money

Mortage is twofold, viz *gopya* (to be protected or guarded) and *bhogya* (to be enjoyed) As a rule, the mortgagee is liable to pay damages for a mortagage spoilt excepting through the natural causes or act of the king

The creditor is to restore the mortgage to the owner after realising his dues—this is the usual and natural rule But, in some cases, a creditor would not part with it out of greed Such a mortgagee is to be punished like a thief (Yāj ii 62)

Sub-mortgage, i e the mortgage of a property already mortgaged, is not allowed by some According to Bharadvāja, if a creditor does so without the permission of the mortgagor, he would lose right over his money Kullūka on Manu, viii 143 says that sub-mortgage is not an offence as Manu has not prohibited it Medhatithi thinks that, according to Manu, the sub-mortgage of a *bhogya ādhi* is forbidden

If the debtor does not repay his debt even after the expiry of the time-limit of the mortgage, he will lose right over it (*Mitākṣarā* on Yāj ii 28) The same rule applies when the debt is not liquidated even after the interest becomes equal to the principal In the case of *bhogya ādhi*, the debtor or his heir can get it released after paying off the debt any time, there is no provision about loss of right over it

If the debtor fails to repay the debt even after the interest becomes equal to the principal or after the expiry of the time-limit, the creditor can sell off the mortgage in presence of a relative of the debtor or of a witness (Yāj. ii. 63)

A kind of mortgage is called *caritrabandhaka* In it, relying on the honesty of the creditor, the debtor borrows a small amount after mortgaging a highly valuable property Again, depending on the honesty of the debtor the creditor advances a big amount after keeping a mortgage of small value In such a mortgage, there is no question of the owner's loss of right over the mortgage

Whatever the lapse of time after the advance of the loan, the creditor shall not get more than double the principal

Lending money depending merely on the reliability of the debtor is also called *caritrabandhaka* In this case, there is no mortgage so that there is no question of loss of right over it

In case the debtor, at the time of mortgaging the property, promises to pay double the principal (including the interest), that is called *Satyamkāra* In it also the debtor has no loss of right however much delay he may make in repayment

If the creditor is abroad or dead, the debtor can get his mortgage released after repaying the money to a member of the creditor's family (Yāj ii 62) As an alternative, the mortgagor can get the value of the mortgage assessed according to the current rate and keep it as it is, thenceforward no further interest will accrue If, in the meantime, the mortagage is spoilt the creditor shall pay its price to the debtor

CHAPTER XI

OFFENCES RELATING TO PARTNERSHIP BUSINESS

Such business was in vogue in ancient India too On the one hand, in a joint business financial matters become easy and there is facility of management On the other, where many people work together disputes are possible especially in financial matters There were rules and regulations for the safeguard of partnership business

Such a business was not only in connexion with trade Actors, singers and craftsmen also sometimes used to work jointly Even priests used to work together subject to certain conditions

Every partner should look after the interest of the business in matters relating to sale, purchase etc According to Yāj (ii 260), Nārada (vi 5) etc he, through whose inadvertence, arbitrary action etc loss is sustained, shall be liable to make good the loss If a partner is dishonest or deceitful, other partners may expel him without giving him any profit

If a thing is missing, all together shall try to get it back through an unknown man after paying him something One who tries to do so alone shall be deprived of profit (*Vivādaratnākara*, p 123).

In the Dharmasūtras, there is no provision for partnership business It seems, such a business was not very much in vogue in those days Even if it was in vogue at the time of Manu, it was perhaps not very common He has extended the rule about the joint work of the sacrificial priests to partnership business (viii 211) Yāj, however, says (ii 263) that the rules about partnership business apply also to priests, cultivators, craftsmen etc It seems that, at his time, such business was popular.

CHAPTER XII

OFFENCES RELATING TO BREACH OF CONTRACT

Breach of contract is called *Saṃvid-vyatikrama* or *Samayasyānapākarma* Though breach of contract was punishable, yet this offence was often committed through greed or inadvertence

Contracts were of various kinds Contracts were made, after swearing, with a villager, a person of a district, merchants or other men

The breach of rules of unions, called *Śreni, Pūga, Gana* etc also belonged to this category *Śrenī* denotes the union of craftsmen like weavers *Pūga* is the union of horsemen and elephant-riders *Gana,* according to the *Mitākṣarā,* means the union of armed people of the same profession According to Kātyāyana (680), it means the union of Brāhmanas

Naigama is according to the *Bālakrīdā* commentary on Yāj ii 192, the union of merchants etc According to *Aparārka,* it means people of different classes who go abroad together for trade

Vrāta, according to Kātyāyana, means a group of people holding various weapons The *Mahābhāsya* on Pānini 5 2 21 explains the union of men of different castes and different vocations They used to earn livelihood by physical power

According to Manu (viii 218-19), the punishment for breach of contract through greed is exile

A few conventional practices relating to different unions are briefly as follows One who violates them shall be punished The inhabitants of a village agree that if the people of a neighbouring village do any wrong to them they would in a body resist the latter Anybody not abiding by the agreement shall be an offender

The rules of a *Śreṇī* require that the sale of some commodities will be confined to some people only One violating this rule will be punishable The members of a *Pūga* and *Vrāta* must fight together, otherwise they will be punishable The people belonging to a *Gaṇa* must get the ears of their children pierced at a fixed time

The order of *Pākhaṇḍins* or heretical Buddhists is well-known One belonging to the Order must abide by its rules

The king will see to it that the rules of all unions are observed irrespective of cas'e and creed He will punish one who violates the rules According to *Yāj* (ii 188-92), the king will form a committee to enforce the rules of *Gaṇa* etc It will be called *Kārya-cintaka* Its members will be pions, free from greed and the king will not cause obstruction to their work

If a member of a union, deputed for some woik, comes across a thing he shall make it over to the Head , otherwise he shall have to pay a fine eleven times the value of the thing

According to Kātyāyana (674-75), one, who misappropriates the money borrowed for the union or spends it for personal benefit, will be punished

If there is a quarrel among the members of a union, the persons concerned shall be fined (Manu viii 220). According to Kātyāyana (671), a member causing obstruction to a reasonable work, to one in the expression of independent opinion or speaking unjustly shall be punished Yāj (ii 187) ordains that if a member misappropriates the property of a union or violates a conventional practice he will be banished According to the *Mitākṣarā* (Yāj ii 1 87), punishment depends on the gravity of the offence and the capacity of the offender

Though breach of contract was an offence, yet we do not find any provision for the specific performance of a contract as it exists in modern law

CHAPTER XIII

OFFENCES AFFECTING HUMAN BODY

INJURY

It means too harsh and severe punishment According to Kautilya (3 19), it includes touching the body, threatening to beat others, actual beating Nārada includes (18 4) in it the striking of others with hands, feet, weapons or by any other means or defiling a person or causing trouble to one by besmearing his body with ashes According to Yāj (ii 212) the striking of animals and trees also comes under it

According to Kātyāyana (798) and Bṛhaspati (SBE, 33, p 363, verse 31) if many people together beat a person to death, then the assailant who violently strikes at the most vital part of the body shall be punished like a murderer

According to Nārada (18 5 6) it is of three kinds, viz ordinary, middling and gravest In the first kind, there is preparation for beating, in the second there is attack without hesitation and in the third actual striking It may again be of three types according to the low, middling and high price of the target of the attack

The general rule is that if a person deals a counterblow, the first striker or one who initiates the quarrel will suffer a heavier punishment If the initiator cannot be ascertained, both the parties will have equal punishment An offender of a low class like Caṇḍāla, who strikes a respectable person like the preceptor, shall have corporal punishment and not fine

According to Kātyāyana (786), there will be difference of punishment in accordance with the difference of castes The lower the caste of the offender the lesser is the degree of punishment According to Manu (viii 286), the degree of punishment will vary in accordance with the social status of the injured person, the value of animal involved and the nature of the injury

Yāj (ii 214) ordains that no offender shall be punished if he acts through ignorance or under the influence of wine But, Kautilya holds that, under such circumstances, the punishment will be half the usual

Murder

According to the *Mitākṣarā* commentary on Yāj (iii 227) and the *Agnipurāna* (173 1), murder consists in an act leading to the loss of life That is murder as a result of which a man loses his life at once or at some other time without any other reason.

Murderers are of five kinds Śūlapāni holds in the *Prāyaścitta-viveka* (Jīvānanda, p 47) that the following five are murderers . One who actually kills another, one who induces another to kill, one who approves the killing, one who aids and abets the murderer, one who is the root cause of the murder The abettor is one who obstructs a fleeing enemy or sets free the murderer restraned by another The matter is discussed in the *Mitākṣarā* on Yāj iii 227 In a verse of the *Agnipurāna* (173 3) it is laid down that, of several colleagues, all of whom hold weapons, if one proves to be the murderer all others will be similarly treated

Kātyāyana (832-34) and Brhaspati (SBE, p 364, verse 32) hold that the following accused shall suffer punishment in accordance with their capacity and the gravity of their offences One who starts a violent act, abettor, one who determines the *modus operandi*, one who gives the offender food, arms or shelter, one who incites the offender to fight or beat, one who gives advice for causing the disappearance of the body of the murdered person, one who instigates the offender by other means, one who discovers faults of the person to be killed; one who supports the offence, one who though capable does not try to prevent the offence All of them are responsible for the offence concerned The *Āpastamba-dharmsūtra* (ii 11. 29. 1) deals with the subject According to Brhaspati, the punishment of the initiator and the abettor shall be half that for the murderer.

According to Āpastamba, cited above, those who induce, permit and actually commit the crime all are entitled to the

appropriate result in the other world One who actually commits the act has, of course, the greatest responsibility According to this logic, he who induces and he who permits are regarded as killers

In the *Prāyaścitta-viveka* (p 57), an authority has been cited to show that a person who, by reproof, beating, theft of money etc, arouses such anger in another as causes the latter's death, will be regarded as a murderer If a person dies for the land of his kinsman, friend or wife then those for whose sake he dies will be regarded as murderers This applies to a Brāhmana who dies The rule about o her castes is not clear.

In murder the motive is the main thing If the action of one, not intent on murder, causes the death of another the former does not become a murderer According to Yāj (iii 284), a person is not guilty of murder if he causes death to another while doing good to him Saṃvarta also holds (138 Ānandāśrama) that if a person dies after taking medicine, oily substances, food etc then the one who gives him these things is not guilty A man is not guilty if his son, pupil or wife dies as a result of punishment inflicted on them (*Prāyaścitta-viveka,* p 58, *Bhavisyapurāna* text, *Agnipurāna* 173 5)

Ātatāyins have been defined in the Introduction One killing an *ātatāyin* for self-defence is not guil'y of murder (Yāj ii 21 *Mitāksarā*) There is difference of opiniond about the propriety of killing an *ātatāyin* for self-defence. Many hold that an *ātatāyin,* who may be even a Brāhmana versed in the Veda, may be killed with impunity (Manu viii 350-51, *Visnu-dharmasūtra* 189-90, *Matsya-purāna* 227 115-17. *Mahābhārata,* Śānti 22 5-6, 34 17, 19 Udyoga 178, 51-52. According to some, a Brāhmana, even if an *ātatāyin* is not to be killed (e.g. Sumantu quoted in the *Mitāksarā* on Yāj. ii 21 Kātyāyana quoted in the *Smrticandrikā,* Vyavahāra, p 315) According to Brhaspati, quoted in the above work, if such a Brāhmana, versed in the Veda, deserves murder one will acquire merit by refraining from it

In the *Gītā,* seeing relatives on the other side, Arjuna told Krsna that, by killing these *ātatāyins* he would incur sin,

Some hold that the *Gītā* being a part of the *Mahābhārata*, which is a Kāvya, the above remark is not in conformity with the injuction of Smrti

By adducing various arguments the *Mitākṣarā* on Yāj. ii 21 concludes that, if in obstructing a Brāhmana *ātatāyin*, his death is caused unconsciously then there will be no crime. Such a Brāmana should not be consciously killed Medhātithi's opinion (on Manu viii 350-51) is similar Kullūka on Manu viii 350 holds that the killing of such a Brāhmana is not a crime if there be no other means of escaping from him Thus, according to him and Aparārka on Yāj iii 227, such a Brāhmana can be killed with impunity as a desperate measure In the *Vyavadhāra-mayūkha* (p 242) Brāhmana-murder is included among *Kalivarjyas* (practices to be avoided in Koli Age) so that even an *ātatāyin* Brāhmana should not be killed in this Age It is noticeable that, with the augmentation of Brāhmanical authority, the person of a Brāhmana came to be regarded as sacrosanct

In all cases of murder, the gravity of offence is not the same The gravest offence is the murder of a Brāhmana This attitude is already noticeable in the Vedic age (*Taittirīya Saṃhitā* ii 5 1 2, 5, v 3 12 1-2 , *Śatapatha Brāhmana* 13 3. 1 1 , *Kāthaka Saṃhitā* 31 7) The destruction of *Bhrūna* is regarded as a greater offence than Brāhmana murder Bhrūna means a learned Brāhmana or foetus whose sex is not known[1].

According to the *Āpastamba-dharmasūtra* (i 9 24 6-9) the murder of an *Ātreyī* or pregnant woman is tantamount to the murder of a Brāhmana According to Manu (xi 87), Yāj (iii 251, and Āpastamba, referred to above, the murder of a Ksatriya and Vaiśya, versed in the Veda and initiated to *Soma-yajña*, is also similar Generally in murder a woman, Ksatriya, Vaiśya or Śūdra belong to the same category

Brāhmana-murder is a grave sin But, the murder of a person of the lower caste by a Brāhmana is a minor offence ; the murder of the above kinds of Ksatriya and Vaiśya is, however, a grave offence

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1 See Kane, *Hist of Dharmasāstra*, II, p 148 , III 612

According to Brhaspati, quoted in the *Udvāha-tattva* of Raghunandana, an adulterous wife may be killed with impunity by the husband According to the *Gautama-dharmasūtra* (23 14), *Mahābhārata*, Śānti (165 64) and Manu viii 371), the punishment of a woman involved in adultery with a man of a lower caste is that the king will cause her flesh to be devoured by dogs

Suicide has been dealt with in connexion with punishment

In the *Arthaśāstra* (IV), there is some information about the investigation of murder There is provision for post-mortem examination in the case of *āśumrtaka* or accidental death Such a death aroused suspicion about suicide or murder The method of examination was as follows At first, oil is to be rubbed on the dead body so that marks of injury become prominent Different kinds of marks, due to various causes, are stated There is swelling of the hands and feet of one who is strangled to death. His excretions come out, eyes bulge out and there are marks of strangulation on his neck Besides these marks, if the hands and thighs of the dead person contract, death by hanging can be inferred Closed eyes, bitten tongue, swollen belly—these indicate drowning The investigator must be very careful, because one who is murdered often looks like one who has committed suicide In case of suspected poisoning, the last food of the person concerned has to be examined or a part of his heart has to be thrown into fire If there is cracking sound or rainbow colour, then poisoning is indicated The post-mortem examination is entrusted to a royal servant He seems to have been like the present-day Coroner If poisoning is confirmed, a servant who has been harshly rebuked or beaten should be suspected If the wife of the dead person has a paramour, she also is to be suspected Anybody having an eye on the property of the deceased is also an object of suspicion.

The main motives of murder are as follows. temptation on the wife or property of the deceased, rivalry in business victory in a lawsuit.

If murder is established, for spotting the murderer, those with whom the murdered person mixed for the last time and with whom he had any business just before death have to be found out.

If suicide is proved, investigation of its cause is to be made.

CHAPTER XIV

ABUSE

According to Nārada (18 1), it consists in harsh speech towards a person causing his sorrow or insult by loudly speaking ill of his country, caste, family etc According to Kātyāyana (768), abuse means a derogatory sound in presence of another, cough, imitation of what is denounced by others or speaking such a thing

Nārada divides (18 2-3) abuse into three classes , viz. *niṣthura* (harshly calling one fool or rogue), *aślīla* (an utterance indicating bad taste or disgrace), *tīvra* (abusing others as murderer of a Brāhmana or drunkard) , each succeeding one is graver than the preceding one

According to Bṛhaspati (SBE, 33, p 355, verse 2-4), abuse is threefold , viz *Sādhārana* (speaking ill of one's country, caste or family, accusing one as a sinner without stating any fault), *madhyama* (one saying to another that sexual intercourse with his or her sister will be performed by the former calling others prepetrators of minor sins), *uttama* (accusing another of having taken prohibited food or drink, calling him the perpetrator of a grave sin)

Punishment is determined by the gravity of the offence committed by one who abuses and one who is abused For abusing a Brāhmana, a member of a lower caste is fined The lower the caste of the offender, the heavier is the punishment For a Śūdra offender physical punishment is ordained For abusing a member of any other caste, the fine of Brāhmana is smaller The lower the caste of the person abused the punishment is lighter Specific punishment is fixed for this offence towards a man of the same caste , it will be doubled if abuse involves the name of one's mother or sister

From the *Smṛticandrikā* and *Modanaratna* it appears that, by the twelfth century, the differentiation of castes and of kinds of abuse was done away with

Slight punishment is ordained for describing a thief or deformed person as such (Manu viii 274) For falsely calling a person thief the punishment is double

According to Kautilya (3 18), it is punishable for a person to describe a really defective or deformed man as beautiful. For example, if a man is blind he may be jocosely described as possessed of beautiful eyes

If a person, accused of abuse, declares that he has done so through ignorance and shall not repeat it, his punishment will be half (Kātyāyana 775)

A royal servant, abusing the king, shall have his tongue cut off and property confiscated (Yāj ii 302, Narada 18 30) ! no differentiation of castes is made in this connexion According to *Āpastamba-dharmasūtra* (ii 10 27-14) a Śūdra shall have his tongue cut off for abusing a member of any of the higher castes

CHAPTER XV

STRI-SAMGRAHANA

Adultery[1], incest and rape are included in it Force, cheating and unrestrained passion—any of these three factors may lead to *Strī-saṃgrahana* The forcible act takes place when there is enjoyment of a woman in a lonely spot against her will or when she is intoxicated, insane or when she shouts Cheating takes place when a passionate man brings a woman to his house by a ruse or after overpowering her by *Dhattura* etc or bringing her under control by charms etc Urged by unrestrained passion, a man may commit *Strī-saṃgrahana* which may be trifling, medium and grave The first may be by casting a sidelong glance at a woman, smiling at her, sending a go-between, touching the ornaments or garments of the woman concerned The second may be by sending to a woman flowers, cosmetics, incense, food, cloth etc and secret conversation In the third kind, there are lying in the same bed, blandishment, kiss, embrace etc

Forcible sexual union was regarded as the gravest offence If the woman was of the same caste as that of the offender the property of the latter was confiscated and after cutting off his genital organ and testicles, he was taken round on the back of an ass Half the punishment was prescribed if the caste of the woman was lower than that of the offender But, if the woman was of a higher caste, the offender was sentenced to death and was to lose right over his property This is according to Bṛhaspati (SBE, 33, p 366, verse 10) There was provision for fine also According to Kātyāyana, in such case, the punishment of the woman was half For an offence punishable with death, a woman had to have a limb cut off

According to Nārada (xv 73-75), the punishment for adultery with the step-mother, maternal aunt, mother-in-law,

1 Regarded as crime in Indian Penal Code, Section 407.

paternal aunt, daughter-in-law, preceptor's wife, a shelter-seeking woman, queen, female mendicant is the cutting off of the offender's organ and, according to some, death

The enjoyment of a prostitute against her will was prohibited One violating this rule was fined

The gravity of the offence of *Strī-saṃgrahana* depended on the caste of the woman, whether she was married or unmarried and whether it was secret or open

It should be stated that the punishment for this offence was very severe in ancient times, but became considerably lighter in later times For example, the punishment of an adulterous woman is, according to *Gautama-dharmasūtra* (xxiii 14-15) and Manu (viii 371), to get her devoured by a dog But, Yāj (ii 286) reduced it to the cutting off of her ears and nose According to the *Āpastamba-dharma-sūtra* (ii 10 26 20-21), for adultery with a married woman the punishment will be the cut:ing of the organ and testicles of the offender For adultery with an unmarried woman, he will lose right over the property But, according to Yāj (ii 288), Manu (vii 866/and Nārada (xv 72), there is no fault in the enjoyment of a maiden of the same caste in accordance with her hint On the contrary, the king will try to bring about the marriage of the parties According to Manu (viii 365), a maiden has no fault if she has sexual union with a man of a higher caste But, union with a man of the lower caste is an offence

Though adultery was regarded as a grave offence, yet, in certain cases, there appears to have been a liberal outlook in Purānas and Smrti Nārada states (xii 61) that a chaste woman incurs no blame by willingly approaching another man if she is forsaken by her husband who is impotent or is attacked with consumption

The formulators of Śāstra have a keen and sympathetic eye on the sex-life of a woman Yāj (i 55) and Nārada (xii 8-19) prescribe methods for ascertaining the sexual vigour of the proposed bridegroom before marriage One whose semen floats in water and urine is frothy is virile, otherwise one is

impotent Nārada gives a list of impotent persons, and prescribes methods for curing them where possible Incidentally he mentions those who can only perform intercourse in the mouth of his partner or can enjoy other women but not their own wives. This matter is dealt with also in the *Arthaśāstra* (305 11) and *Agnipurāna* (227 15-16).

CHAPTER XVI

OFFENCES AFFECTING ANIMALS

In ancient India, animals could not be treated in any and every way A civilised society does not allow people to be cruel even to animals At present also cruelty to animals is a punishable offence An animal may cause annoyance or harm Everybody has the right to prevent it, but not in a cruel manner Let us see what the attitude of ancient Indians was to animals

Fine was prescribed for maiming or killing an animal, the amount varied in accordance with the gravity of the offence For example, according to Manu (viii 296-98) and Yāj (ii 225-26) a person was liable to fine for injuring or killing a cow, elephant, horse or even an animal of small value like the goat

It should be stated that there was no fault in killing an animal for sacrifice or for food

If a cow caused a little damage in a festival or *Śrāddha*, its master was not to blame According to *Parāśaramādhava* (iii p 385), no blame attached to the owner of a cow damaging crops in a field situated on the outskirts of a village But, if crops were destroyed in a field which was fenced off, the owner was liable to fine

A carter will be punishable like a thief if, as a result of driving his cart rashly, a pedestrian is killed (Manu viii 295) If death is caused to a big animal like cow, horse, elephant, camel the punishment will be half A still lesser punishment is ordained if the victim is a small animal

If a horse, dog or monkey injures anybody, their owner is not responsible unless he sets them afainst the person concerned (Nārada—Pārusya, 32, SBE, 33, p 212)

According to the *Mitākṣarā* (on Yāj ii. 212), the offence of injuring an animal comes under *Darnda-pārusya* (too severe punishment)

CHAPTER XVII

OFFENCES AGAINST THE KING

According to modern conception, a crime is, on the one hand, harmful to society and the affected person and, on the other, an offence against the State

Certain offences, however, are directly prejudical to the interest of the king, and do not affect the public or an individual Sedition, incitement of sedition, defalcation of government funds these are harmful to the State For a knowledge of these offences it is necessary to employ sp es , because it is not possible for the king personally to know what is happening in every nook and corner of the vast kingdom

The king's employees, particularly high functionaries, may be dissatisfied with the king for various reasons They provide a fertile field for sowing the seeds of rebellion against the king It becomes easy to create disaffection between them and the king Such royal officers are called *Krtya* or seducible They may be of four kinds (*Arthasāstra* I 14 2-5)

(1) *Kruddha* (angry)—they are those the amelioration of whose condition the king promised but failed to act For example, those who have not been promoted or have been demoted

(2) *Bhīta* (terrified)—those who have done something wrong, amassed money by unfair means or have incurred the displeasure of the king

(3) *Lubdha* (greedy)—those who have become destitute or addicted to vice or are miserly

(4) *Mānī* (self-conceited)—those who, due to too much of conceit, are not satisfied with their own condition They have a tendency to act rashly

It is a duty of the spies to trace such people (I 13 22-23) Kautilya advises the king to win over such people in

the enemy's kingdom so that the later may be weakened and the conquest of his territory becomes easy (I 14 6-12)

As a result of various misdeeds of the royal officers, the king and his subjects may be harmed (ii 8. 4-21, 9 32-34, iv 52 24) Defalcation of government funds was common in those times as at present Obstruction to the realisation or desposit of revenue, use of government property on interest or for personal benefit, giving the state less valuable things instead of more valuable ones etc—these are some of the ways how an officer can cheat the king Kautilya has stated forty different methods of embezzlement of funds by royal officers There is mentioned also of removing valuable things from a mine or factory, theft of articles and money etc, from the government fund or treasury Among other offences are mentioned dishonesty of a judge or an administrator, misconduct of the Chief of prisons

A class of offenders is called *Gūdhājīvin* by Kautilya, their livelihood is clandestine and, therefore, suspicious Among them are high-ranking officers, e g judge, *Pradestr*, *Grāma-kūta* and the Superintendents of different departments They can accept bribes taking advantage of their status or can realise money by putting pressure on the people

Besides royal officers, the following also belong to the above class. those who agree to give false evidence for money, practise magical rites, make counterfeit coins, sell drink or poison that causes one to faint

Banishment is the punishment of such persons One can escape banishment by paying fine in accordance with the gravity of the offence

The investigation of such crimes is the duty of the *Samāhartā*[1] It can be done in two ways The persons affected by the dishonest practices of the officers, may be invited to disclose their grievances or spies may be engaged If a spy

1 Collector General The word occurs in the following works and inscrtptions *Arthasāstra* (I 12 2 6), Taimmīya *Mīmamsāsūtra* (12 1 28)—*Śabara-bhāsya*; Plate of Mahābhavagupta (E I VIII p 141; XI p 94)

succeeds in spotting the culprit, he may be promised a reward of one-sixth of the money involved in the crime (II 8 24-32) Officers investigating such offences appear to have been engaged in every government office As a safeguard against corrupt practices of royal officers, it is provided that every government office shall have some heads who will be frequently transferred

An officer, designated as *Rāṣtrapāla,* is mentioned in the *Arthaśāstra* (V 3 7) His duty was, perhaps, to some extent, like that of the *Samāhartā*

Heavy punishment is ordained for embezzlement and other corrupt practices In certain cases, it is ordained that the officer concerned shall be disgraced in various ways For example, he should be taken round the town or village after besmearing his body with cowdung and ashes and proclaiming his offence Or, his head will be shaved and he should be driven by throwing brickbats at him In certain grave offences, death-penalty and killing by torture is provided (IV 9 2-2 7) These modes of punishment are deterrent

CHAPTER XVIII

OFFENCES RELATING TO GAMBLING AND ANIMAL-BETTING

Gamblıng wıth dıce (*dyūta*) and anımal-bettıng (*samāhvaya*) have been ın vogue sınce Vedıc tımes In a Ṛgvedıc hymn (X 34) there ıs descrıptıon of the wretched condıtıon of a man who lost hıs all, even hıs wıfe, as a result of gamblıng The *Mahābhārata* furnıshes a very glarıng example of the prıvatıons suffered by Pāndavas defeated ın dıce-playıng Though thıs game ıs condemned by Manu (vıı 47, 50) as a vıce, yet of ıts wıde prevalence there ıs no doubt whatsoever

Anımal-bettıng (*samāhvaya*) has also been a popular practıce sınce remote ages Horse-race of the present day ıs a sort of thıs practıce

Manu strongly decrıes (ıx 221-22, 224-26) gamblıng wıth dıce Hıs dırectıon ıs that corporal punıshment should be ınflıcted on one who takes to ıt, and ınduces others to do so Accordıng to hım, a gambler should be banıshed , because he deceıves people of good conduct

The ınjunctıons of Yāj (ıı 203) and Kautılya (3 20) are realıstıc Accordıng to them, at the central spot of a place gamblıng may be allowed under the supervısıon of the government , thus the thıef can be spotted easıly by the spıes

One who conducted gamblıng was called *Sabhıka* Accordıng to Nārada (xıx 8) a gambler ıs not guılty ıf he takes to thıs ın an open space after payıng the kıng hıs dues

If the defeated party does not pay the wınner hıs dues, the *Sabhıka* wıll try to realıse ıt He havıng faıled the kıng wıll ıntervene ıf, of course, the aggrıeved has paıd the kıngs dues (Yāj ıı 2 1) Accordıng to Yāj (ıı 202) and Nārada (xıx. 617) One conductıng the busıness wıthout the permıssıon of the kıng or resortıng to deceıtful practıces shall be punıssed. The punıshment ıs brandıng hıs forehead wıth the mark of a

dog's leg and banishment According to Nārada (xix 6), the exiled man shall wear a garland of dice round his neck

According to Yāj (ii 203), the rules and regulations about gambling apply to animal-betting too In the *Arthaśāstra* (3 20 1-12) there is provision of gambling under State control The State is to provide a place for gambling as well as the dice and other requisities There is mention of law-suits relating to gambling because deceitful practices were common

CHAPTER XIX

OFFENCES RELATING TO LITIGATION

Litigation has always been a complicated matter, the complication being added to by dishonest lawyers, selfish agents, perjurers etc A law-court is the best place for earning money by taking advantage of the helplessness of people In the *Mrcchakatika* Śūdraka has aptly characterised a court as infested with sharks and crocodiles

The wise ancient Indians did not support the idea of a person, unconnected with a suit, acquiring money by taking advantage of the situation

A clerk, distorting a statement, was punished

Perjury was a culpable offence, the perjurer had to pay fine According to Manu (viii 118), a person resorts to this practice for the following reasons . greed, wrong impression, fear, friendship, passion, anger, ignorance, minority A Brahmin perjurer was liable to *vivāsana* which means, according to some, banishment, and, according to others, making naked or breaking one's house For a non-Brahmin resorting to perjury, the punishment, besides fine, is the cutting of the tongue or death For a similar offence a Brahmin shall be fined or subjected to *vivāsana*

For the wilful absence of a witness he shall be fined

According to Brhaspati (SBE, 33, p 301 verse 21), a dishonest judge, a perjurer and a murderer of a Brāhmana belong to the same category of offenders

According to Yājñavalkya (ii 83) and some other Smrti writers, perjury is allowed in a case where, as a result of speaking the truth, a member of any of the four castes is likely to suffer death-penalty The sin, accruing from a false statement in such a case, is washed off by expiation

Yājñavalkya hold (ii 82) that if a witness, having promised to give evidence, withholds it he shall be fined if he is a non-Brāhmin If he is a Brahmin, he shall be banished or his house will be razed to the ground

CHAPTER XX

POLICE SYSTEM

In connection with the protection of the State, Manu ordains that there should be one gulma over two, three or five villages A similar body will be established over a hundred villages too (vii 114) Explaining the term *gulma,* Kullūka says that it is a body of guards From this it appears to have been like a police station or outpost of the present times

The word *coragrāha* occur at certain places, e g *Nārada-smṛti* (Supplementary verse 18) and Kātyāyana quoted in the *Aparārka* commentary (p. 844) on the *Yājñavalkya-smṛti* The word appears to denote an officer for catching thieves The word *corarajjuka,* occurring in the *Arthaśāstra* (4 13) perhaps denotes an officer whose duty was to get a thief bound by a rope In the same work (2 6) *corarajju* is stated among the elements of the state

The term *cauroddharaṇika* occurs in some inscriptions and grants [1] It perhaps means one who arrests a thief or eradicates him *Coroddhartā,* occurs in Yājñavalkya (ii)271,) Kātyāyana, quoted in *Aparāka,* (p 844) is probably synonymous with it

Yājñavalkya mentions (ii 173) an officer called *Sthāna-pāla* It, according to the *Mitākṣarā,* denotes the protector of a place Such officers probably used to mount guard at specified places and to find out lost articles

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1 Gupta Inscriptions No 46, p 213, p 216 Valabhi Grant of Dharasena II (Gupta era 252, I A , 15, p 187) Bhagalpur plate of Nārāyanapāla (I A 15, p 304) Laksmaṇasena's Grant (E 1 , XI, p 6, p 9, etc)

The word *Dāndika* occurs in some inscriptions and grants [1] It perhaps denotes a high police official

The term *Dandanāyaka* means, according to Stein (*Rāja-taranginī* vii 951), the police Chief

The words *Dauhsādha-sādhanika*[2], *Dauhsādhika*[3], *Mahā-dauhsādha-sādhanika*[4], etc, refer, according to Kane, to such a man as arrests terrible robbers, it is difficult to arrest them

Piśunavetrika[5] probably denotes a royal officer who drives away undesirable elements with a cane

In the *Āpastamba-dharmasūtra* (ii 10 26 6-8) it is stated that the officer concerned shall see to it that theft is not committed within an area of one *Yojana* This area is up to one *Krośa* in rural regions

From the above account it seems that the police was responsible for both the prevention and remedy of theft

In the *Abhijñāna-śakuntala,* we find two policemen The king's brother-in-law appears as the superior officer of police officers In the *Mrcchakatika,* there are references to two city policemen

The work *nāgarika,* occurring in the *Vikramorvaśiya* (V after verse 4), *Daśakumara-carita* (II p p 58, 59, Bombay Skt Series) denotes Police Chief, according to some the head of prisons, according to others

Arrest

In the *Mitāksarā* commentary on the *Yājñavalkya-smrti* (ii 1 5) complaints are stated to be twofold, viz complaint

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1 Gupta Inscriptions No 46, p 213 (p 216) Bhagalpur plate of Nārāyanapāla (I A 15, p 304, p 306) Nalanda plate of Devapala (E I xvii, p 321)

2 Banskhara Plate of Harṣa (E I iv, p 208, p 271) Sevadi plates of Cāhamāna Ratnapāla, Saṃvat 1176 (E I XI, p 310), *dauhsādha-sādhanika*

3 Lakṣmanasena's Grant (1122 A D E I XII, p 9, p 306, Devapāla's Nālanda Plate, E I XI, p 139, p 141

4 Nārāyanapāla's Plate I A 15, p 304, p 306.

5 Mahābhavagupta I's plate E I p 93, p 94.

on suspiction (*śaṃkābhiyoga*) and that based on fact (*tattvābhiyoga*)

According to Kautilya (4 6 2) arrest may be in three ways

(1) Śaṃkābhigraha—in such a case, there is no definite evidence of the crime A person is regarded as the offender on an examination of circumstantial evidence, e g extravagance, too much addiction to wine or women, gambling, secret treatment of physical wounds, clandestine movement at night, disguise, evasion of the sight of royal officers, undue and repeated curiosity about others' wives, property and house etc In such circumstances, the person concerned can be arrested on the suspicion of theft, murder or adultery

(2) Rūpābhigraha—a person found in possession of stolen articles, can be arrested If the accused can prove that he acquired those things by valid modes like purchase, he shall be released Otherwise, he is regarded as a thief (4 6 3-15)

(3) Karmābhigraha—arrest on *prime facie* evidence

The word *ārakṣaka,* occurring in the *Pañcatantra, Daśakumāra-carita* etc probably denotes guard or Police Magistrate

As at present preventive detention was in vogue in ancient India too In order to prevent a possible crime, some people were kept confined without trial. The following classes of people were kept under surveillance and, if necessary, kept confined

1 An unemployed person
2 A person whose family and conduct are unknown
3 A rich man who is in a declining condition
4 Men and women gone astray
5 People of suspicious movements
6 Night-rangers, drunkards and passionate people

7. One distressed by imaginary fear
8. One engaged in the clandestine sale or purchase of articles
9. One engaged in clandestine trade in precious articles like gold
10. A habitual offender

CHAPTER XXI

PRISON

The practice of imprisoning an offender harks back to a remote age According to Kautilya (II 5), a prison will be situated in the capital In it separate space should be provided for men and women, and the entrance must be guarded well

According to Manu (ix 288), a prison should be near the highway This will enable people to witness the wretched condition of the prisoners As a result, they will desist from crimes.

The prisoners may be set free if they work everyday or once in every five days or suffer corporal punishment

In some works we find the practice of granting amnesty to prisoners on an auspicious day or on a festive occasion The *Mālavikāgnimitra* (iv portion following v 5) refers to the release of prisoners for acquiring merit In the *Raghuvaṃśa* (xvii 19) there is reference to the relase of a prisoner and the commutation of death sentence on the occasion of coranation In the *Bṛhat-saṃhitā* (47 81) we find that, though there was the custom of discharging prisoners on an auspicious day, yet the release of a prisoner accused of an offence against the person of the king or the royal harem was prohibited The *Mṛcchakaṭika* refers (X), to the setting free of prisoners on different occasions The *Harṣacarita* mentions (II, para 2 , IV) the release of prisoners at the time of coronation and the birth of Harṣa The same work gives some idea of the mode of life of prisoners A prisoner is described as having long beard on his face and his body covered with dust

According to Kautilya (II 36), the following prisoners should be set free on the birth-anniversary of the king and on the full-moon day of every month one of tender age, too old person, sick man, helpless person, one who has paid

the specified fine or has furnished a written consent to do so Besides the above occasions, there is provision for amnesty on the following occasions Conquest of a new kingdom, the birth of a son to the king etc

All criminals, however, did not deserve forgiveness Manu and Visnu provide that if the king forgives an offender who is not penitent or commits crimes repeatedly the sin of the offence concerned will tarnish him According to Manu, in violent crimes like homicide, incendiarism etc forgivences is forbidden

From some edicts[1] of Aśoka it appears that he gave three days' time to a criminal sentenced to death We are further told that, in a span of twenty-six years, he granted amnesty twenty-five times

1 E g Delhi Topra Pillar Edict Corpus I 1, Vol I, p p 126-128 and E L, Vol II, p p 258-59

CHAPTER XXII

ESPIONACE

In the British regime, the Criminal Investigation Department (C I D) was established It was very efficien* The system of training spies is Scotlandyard, England, is famous throughout the world Terrorism was a part of the revolutionary movement before the liberation of India The British Administrator tried various means to collect information about the revolutionaries and terroris s One of the means was to set student spies against fellow students Some people used to supply information about revolutionary colleagues out of greed of money or for winning the favour of the Government Spies used to move about in villages, business centres etc

The system of espionage in ancient India was highly developed The kings were described as having eyes in the form of spies The spy was called *cara* or *pranidhi* There is a detailed description of spies is the *Arthaśāstra* 1 11 2-20, 12 1-5 etc)

The spies were of two classes, viz *Saṃsthā* and *Sañcāra* Those of the first class used to s'ay at one place while those of the other class used to go from place to place

The spies of the *Saṃsthā* class were of five kinds

1 Kāpatika—a student or assistant secretly supplying information about mischievous people to the king or the minister concerned

2 Udāsthita—a monk or mendicant fallen from his means of livelihood Spies, disguised as monks or mendicants, used to surround him

3 Grhapatika—Vyañjana—a cultivator who has lost his livelihood, and enjoys royal help Many spies used to live under him

4 Vaidehaka—vyañjana— a merchant who has lost his livelihood, and enjoys royal patronage Many spies used to live under him

5 Tāpasa-vyañjana—a hypocritical ascetic pretending to be a great man Espionage was carried on keeping him at the centre

The *Sañcāra* spies were of four kinds

1. Sattrī—the spy par excellence He is ostensibly an orphan, trained well by the Government

2 Tiksna—a desperate fellow free from fear A king's enemy used to be liquidated through him.

3 Rasada—a spy administering poison

The spies of the last two classes used to inflict *Upāmśu-danda* (secret punishment) and *Tūsnīm-danda* (silent punishment)

4. Bhiksukī or Parivrājikā—a Brahmin female mendicant. As she enjoyed royal favour, she used to be cordially received in the houses of high royal officers This offered her an opportunity to collect information about harmful activities, if any Buddhist nuns were also used to do this work

The spies of the *Samsthā* class used to work under the *Samāhartā* The latter used to verify the information, collected by *Gopas,* through these spies Through them he used to collect information also about the anti-state activities of the people and royal officers (2 35) The Samñcāra spies also used to work at the direction of the *Samāhartā* The information, collected by them, was at first sent to the *Samsthā* (1 12 7-12)

A kind of spies was employed in a foreign State too Such a spy used to be paid by his king, and earned money by serving the foreign king or his minister So, he was designated as *Ubhaya-Vetana* He used to supply secret information to his own king As a safeguard against his possible activities against his king, his family members used to be kept as hostages (1 12 17-19).

The astute Kautilya knew that a spy, out of a sinister motive, might supply false or distorted information So, he ordained that the king should believe an information supplied by three independent sources

A spy, at the instigation of others or out of a mischievous spirit, may cause physical injury to the king in a lonely place So, Manu provides (vii 223) that the king, armed with weapons, should meet the spies

CHAPTER XXIII

OFFENCES AND OFFENDERS IN LITERATURE

Human society consis s of both good and bad elements As every human body is subjected to some disease or other, so the society cannot be free from offences which are like diseases So, no picture of a society can be complete without an account of the offences and offenders Such accounts can be gathered from the works in Sanskrit, Pāli and Pākrit works about the society through millenniums since the Vedic age These accounts reveal the natural tendencies of some people, and help literary purposes We shall try to draw a broad outline of the offences and offenders mentioned in literary works

Age of the Vedas

In modern times it is a common sight to see young men running after beautiful damsels Sometimes, this tendency goes to such an extent that it creates a law and order problem It is curious that this tendency is referred to in the remote Vedic age too In the *Rgveda* (I 115 2), the sun rising after dawn is likened to a man following a woman

In the dialogue between Yama and Yamī (RV X 10) we find the full-blooded passionate Yamī trying to induce her brother to have sexual union with her VI 55 4 refers to the sexual inter-course of the father and daughter This Veda refers to illicit sexual relation (I 134 3, VII 9 1), conjugal infidelity (IV 5 $, VII 104 17), abortion (II 29, 11) etc X, 107, 8-9 refer to addiction to the vice of drinking and enjoying woman.

X 34 depicts the miserable condition resulting from addiction to dicing.

There are references to theft and robbery (I 33 4, 6, 7; 42 3, II 18; 23 16), cheating (II 23 5, V 34. 7) etc.

In the society of the *Atharvaveda* wilful abortion, abduction of women, illicit sexual union etc are referred to AV V.

35 4, cviii 3 1 etc appear to hint at parricide and fratricide In certain rites human sacrifices appear to have been in vogue At certain places, there are references (e g V 7 10) to prostitution

The *Yajurveda* (*Vājasaneji Saṃhitā,* 16 21 22) mentions some offenders Among them are cheats, petty thieves, big thieves, cut-purses, night-rengers, snatchers, cut-throats, robbers holding swords, robbers with bows and arms, hooligans wearing turbans and moving about in groups etc

Age of Brahmanas

The *Śatapatha* refers (13 2 4 2) to bandits and thieves.

Age of Sutras

In various works of the Kalpasūtra, there are references to rape, adultery, defamation, assault, murder, theft, destruction of ripe crops, abetting a criminal, transgression of the rules of castes and stages of life

Panini and Patanjali

Pānini refers to theft (V 2 125), plunder (iii 2 155) and highway robbery (iv 4 36). The following crimes are also referred to by him child-murder, severing the head, destruction of foetus (vi 1 174) and murder of a Brāhmana (iii 2 87)

Patañjali, in his *Mahābhāśya,* refers to the following criminals cheat (V 2 76), abductor of women (i 1 40), murderer of a boy (iii 2 84), distroyer of foetus (vi 4 174).

Ramayana and Mahabharata

The *Rāmāyana* contains many descriptions of unrestrained sexual enjoyment A peep into the harem of Rāvana reveals a lewd picture of sex-life The carrying away of Sītā by Rāvana is an instance of abduction of women This tendency was not rare in the Aryan society too A glaring example is the calandestine union of Indra and Ahalyā, wife of sage Gautama

The *Mahābhārata* contains references to many offences; e g drinking, gambling, adultery etc in the Śāntiparvan (140

26) The Vanaparvan, too, refers (13 7) to some such offences That gambling with dice was very common is proved by the loss of the kingdom of Yudhisthira, defeated in dicing

Puranis Age

Among the offences, mentioned in the *Agnipurāna* (227 36, 50-54), the most noteworthy are assault, murder, theft, adultery, destruction of houses, grazing fields, poisoning, instigation of the queen to evil deeds, perjury, sedition, mutilation of a corpse, theft of the water-pot or rope from a public well, obstruction to the natural flow of water, cruelty to animals, aiding a prisoner to escape

Age of Smrti

There is a regular penal code in this Śāstra Some Smrti works contain references to all kinds of possible sins, the relevant expiation and, in appropriate cases, punishment by the king We state below a few such culpable offences which were common in the society In the introduction, we have stated eighteen titles of disputes

The following offences appear to have been common . beating the brother's wife, causing the abortion of a female slave, non-response to a call for help against a thief, such vulgar remarks as 'I shall violate the chastity of your mother', emasculation of a bull, to desert the father, brother or husband though they are not apostates, the washerman's wearing or selling off others' clothes, forgery of documents, making counterfeit coins, keeping a person confined without royal order, adulteration of medicine and food, selling clothes, jewels etc of inferior quality after declaring these as of superior quality

In a court of law, besides perjury, the following offences were punishable , fase complaint, intimidation of a witness

Ātatāyins have been defined in the Introduction

Arthasastra

Among other offences, mentioned in it, there is the sale of a minor or borrowing money by pledging him (III 13. 1).

A class of robbers, called Mānavas, is mentioned (IV 5 1-7) They were probably plunderers and used to practise black magic

It was punishable to help a woman in becoming a wandering mendicant and leaving home (II 1 29)

A class of royal officers and some other people are designated as *Gūdhājīvas* or earning livelihood by clandestine means They have been deat with in connexion with offences against the king

There are references to cheating by weavers, washermen, goldsmiths etc , shortage of weights and measures, charging exorbitant price, adulteration these were some of the common means of deception

Theft, entrance into a fort without permission, deceitful dicing, sale of human flesh etc , are included among grave offences

Science of Theft

It has been discussed in the work, entitled *Sanmukhakalpa* In it are discussed methods of making oneself invisible, fording a marshy land, controlling others, depriving others of the power to see, opening closed doors, cutting holes into walls

Classical Sanskrit Literature

The works of this class contain copious references to drinking As in the present times, among certain classes of people, the first friendship started with drinking together There is reference to this practice in the *Abijñāna-śakuntala* (vi)

The drinking house, referred to in some works, perhaps corresponds to the modern bar The word *Madhukosaka* denotes goblet In the *Kādambarī* (p 149—Kale, 1938), the word *nānāsava-pātra* obviously refers to various drinking vessels

Theft was so widely prevalent that it has been included among the 64 arts Regarding the adroitness of a thief the *Mahābhāsya* states (ii. 4. 19) that he steals even collyrium

from another's eyes In the *Daśakumāra-carita* (Kale, p 22), it appears to have been a subject of study of the princes The very name Apahāravarman in it contains a covert reference to *apaharana* or theft The object of his theft was noble Like Robin Hood he used to rob the rich Peter to pay the poor Paul, and used to bring about the union of the lovers and the beloved

The most noteworthy story of theft occurs in Bilhana's Caurapañcāśikā The theft was for love, and was committed by the lover of the princes Śarvilaka in the *Mrcchakatika* committed theft for securing the ransom of his beloved, and not out of evil motive

The activities of thieves were not confined merely to the houses of people The *Divyāvadāna* contains the word *Udyānamosaka* who, like the poacher of to-day, used to steal things from gardens

Various references to theft occur in the *Cārudatta* of Bhāsa, *Kathāsaritsāgara, Purusaparīkā* of Vidyāpati, *Vetālapañcaviṃśati, Śukasaptati, katharnava* of Śivadāsa, Jaina *Kathākośa* etc

In his commentary on the *Mrcchakatika* (iii 14) Lalla Dīksita refers to a Caurya-śāstra We have already referred to the *Sanmukha-kalpa* dealing with theft According to tradition, Mūladeva was the formulator of this Śāstra The significance of the word Mūladeva is, perhaps, that thieves used roots of trees to control people whose wealth was stolen Mūladeva is also called Karnī-sūta or Gonikāputra

Besides some herbs for controlling people and rendering them unconscious etc, the work contains some charms too for use by thieves A method, practised by thieves, is stated below as a specimen A tablet is to be made with the mixture of the eyes of a tiger, horse and cat as well as the bile of a goat If one keeps it in the mouth uttering the incantation *Oṃ namo harini Svāhā,* one can be popular One can go anywhere at will by keeping in the mouth a tablet made of the eyes of a deer, boar and goat alongwith the blood of a hair.

Theft by digging tunnels was rampant In Bhāsa's *Cārudatta,* various types of tunnels are mentioned, e g *Jhasāsya* (the face of a fish), *Gajāsya* (face of an elephant), *Vyāghravaktra* (face of a tiger), *Pūrṇacandra* (full moon), *Candrārdha* (crescent moon) etc

Various instruments and appliances required in theft are mentioned in the *Daśakumāra-carita, Mṛcchakatika, Kathāsaritsāgara* etc Some of these are *Phanimukha* (snake-face), *Karkatarajju* (rope like a crab), *Yogacūrna* (magic powder), *Yogavartikā* (magic light) Some charms, used by thieves, are *Advasvapnikā* (for making others sleep), *Tālodghātinī* (breathing locks)

In the *Mrcchakatika* (iii 12 16), there is reference to a means of getting rid of a snake in the tunnel In this work as well as in the *Cārudatta,* there is mention of a dummy man used for feeling whether or not there is danger at the other end of the tunnel A musical instrument, called *Kākalī,* producing a mild sound, used to be played to ascertain whether or not the inmates were awake within the house A thief used to carry with him a box full of bees or other insects These were let loose for extinguishing lights within the house

Pali Litereature

Illicit sexual relations appear to have been very common. Among the rules of *Pañcaśīla,* preached by the Buddha, one was abstinence from adultery It has been condemned in various works, e g *Bhiksunīvibbhañga, Samghādiśesa,* II, *Vinayapitaka Mahādukkha- khandha-sutta* (*Majjhima Nikāya, I*), *Dhammikasutta, Dhammapada* (22, 4, 5), *Bhikkhupātimokkha* etc

The *Dhammapada* (9 8) and the *Pātimokkha* (I) etc testify to robbery in the society

Murder is mentioned in some works, e g *Bhikkhupātimokkha*

Among the punishable offences, mentioned in the *Sammādiṭṭhi sutta* (*Majjhima-nikāya,* I), are murder, theft, illicit sexual union

Theft and abetment of theft, aiding illicit sex-relation, harbouring of stolen properties etc are mentioned in various works, e g *Dhammika sutta* (*Suttanipata*), *Sāriputtasutta* Dhammapāla's commentary on the *Therīgāthā* etc

The *Katāhajātaka* refers to the forging of documents etc

Various Pāli works, particularly, Jātakas, refer to drinking which seems to have been widely prevalent Among the five Commandments (*Pañcasīla*), one is abstinence from drinking The *Dhammapada* (18 13) severely condemns it

Gambling with dice is mentioned, e g *Dhamapada* commentary (3)

The *Jātakas* refer to certain other offences, e g accepting bribe (*Taṇḍulanālī Jātaka,* theft (*Mahilāmukta Jātaka*), murder (Do), docoity (*Kulāyaka Jātaka*), confining a debtor so long as debt is not repaid (*Vedabbha Jātaka*), illicit sex-relation (*Mahāsīla Jātaka*)

Prakrit and Apabhramsa Literatures

Illicit sexual union is mentioned in the *Gāthāsaptaśtī* (iv 60, iii 37 etc) In the *Jasaharacariū* (ii 8) there is reference to the queen's relation with a hump-backed person At other places of this work, too, there are references to clandestine sexual union of men and women Abduction of women (*Dhammapada,* ii 18) and sedition (Ibid iv 96) are also mentioned The *Karakanda-cariū* refers (i 5) to the son of an unmarried girl

Drinking is referred to the *Gāthā-saptaśatī* Even women are stated to be addicted to it (vi 44, iii 70) iii 27 mentions *Pānakuṭī* or bar The *Karpūra-mañjarī,* too, refers (acts i, iii and iv) to drinking The *Karakanda-cariū* also testifies to drinking (ix 21)

There is reference, in the *Karakanda-cariū* (i 17), to theft

CHAPTER XXII

PROSTITUTION

Prostitution is, perhaps, co-eval with human society It is found in all countries and all ages The sociologists think that it is a necessary evil Many moralists think that it leads man astray, and sets a bad example before the people , so it should be totally abolished But, most social leaders think that the sex impulse of man is inherent Some people do not get an opportunity to satisfy this impulse Unless there is prostitution, such people will not have any means of satisfying their carnel desire Thus, an aspect of their life will remain incomplete The result will be that they will resort to clandestine sexual enjoyment , this will stand in the way of the healthy growth of the society

In ancient India, despite ethical principles, religious rites, philosophy etc prostitution was not eradicated Besides administrative rules relating to prostitutes, various matters concerning prostitution have been discussed in some works, particularly in the *Kāmasūtra* It has been dealt with chiefly in the following works Dāmodaragupta's *Kuttanīmata*, Ksemendra's *Samayamātṛkā, Deśopodeśa, Kalāvilāsa* (iv)

Chapter XXIV of the *Nāṭyaśāstra* is devoted to this subject The administrative aspect has been dealt with in the *Arthaśāstra*

Words denoting prostitutes

That the society looked at the various traits of prostitutes and that they tried in a number of ways to attract people are proved by the many synonyms of the word *ganikā* The synonyms are *Bandhakī* (related to many men through passion), *Rūpājīvā* (one who earns livelihood by beautiful appearance), *Veśyā* (one who causes delusion in man by dress), *Ganikā* (living in *ganas* or groups, or enjoyed by a number of people), *Vārānganā* (one who is enjoyed by turn), *Kuttanī* or *Śambhalī* (one who procures passionate people), *puṃścalī* (running after

a man), *Kumbhadāsī* and *Paricārikā* (a woman in keeping). There is mention of the *Patakāveśyā* in the *Pādatāditaka*; (Calcutta, p 192, line 19) Such a woman perhaps used to attract people by hoisting a flag

Prostitutes of three kinds are also mentioned *Ekaparigrahā* (attached to one), *Anekaparigrahā* (attached to many), *Aparigrahā* (not attached to a particular individual) The *Arthaśāstra* mentions (3 20 15) *Anyoparuddhā* who was, perhaps, kept for the personal enjoyment of a particular individual Kautilya mentions the following *Rūpodāsī* (2 27) and *Ganikādāsī* (I bid)

Secret and open prostitution

A class of women, living in the harlots' quarters, used to take to this profession Besides them, a class of women used to move about in the society as secret prostitutes They are variously called *Kulatā* (a family women gone astray), *Svairinī* (a self-willed woman defying social restrictions), *Prakāśa-vinastā* (one snapping the family tie) They were what is conveyed by the term demimonde Dancing girls, carftswomen, *Kumbhadāsī, Paricārikā*—they belonged to this class

Observations of authors on the enjoyment of prostitutes

In the *Kuttanīmata* (789) it is stated that in order to prevent diseases caused by a very strong desire of sexual enjoyment, one should enjoy prostitutes In the *Samayamātrkā* (viii 93) it is stated that sexual union with a prostitute is more pleasant than that with one's wife The idea is that a married woman, due to child-birth, soon loses her youth so that she cannot give much pleasure Moreover, she cannot attract her husband with passionate movements like a prostitute The urge for enjoyment of a married woman is not as strong as that of a prostitute In the *Deśopadeśa* he says that a mature prostitute is passion incarnate

Wiles of prostitutes, their profession

In the *Kāmasūtra* and other works, dealing with prostitution, there is much information about the prostitute's training, wiles and profession The word *mātṛkā,* occurring in the *Artha-*

śāstra (2 27), perhaps denotes a superannuated prostitute who used to train others Among the subjects to be learnt by prostitutes are dance, song, music, acting, reading, writing, painting, thought-reading, shampooing, making perfumes and garlands The trainers of prostitutes will be maintained by the king

Vātsyāyana's observations are as follows: in order to attract people, prostitutes, being adorned with ornaments, will sit down looking at the highway Her body will be silghtly displayed, but not fully

Those, through whom they will procure people, are as follows a powerful hero, *Pīthamarda* (Companion of the hero), *Vita, Vidūsaka* (Jester), *Mālākāra* (garland-marker), distiller or seller of wine, washerman, barber They visit others' houses and are able to bring passionate people

Those, whom a prostitute should approach for making money, are mainly the following very young man, rich man, a finance officer, one enjoying unearned income, one proud of high family and learning, a charitably disposed man, one who is respected by the king or the minister, one devoid of love of money, one who transgresses the control of superiors, the only son of a rich man, an ascetic with hidden passion

For the acquisition of joy and fame a qualified man should be approached, *e g* a learned man, a poet, a devotee etc

The following persons are unfit leper, one having a foul-smelling mouth, one attached to own wife, a harsh-tongued man, a cruel person, a thief, a shameless person

According to Vātsyāyana, the following are the reasons for a prostitute approaching a man, acquisition of money, remedy against danger and joy

Even when a deserving person wants to be united with a prostitute, she should not make herself easily available Before approaching him she must be sure about his affection, disaffection, habit of gift etc

On the following occasions, a prostitute may visit the house of a man or the latter can visit that of the former. Cock-fight, ram-fight, *preksanaka* (show, exhibition) etc

When a man comes, a woman shall try to influence him by sending him a present through an attendant expert in jokes, conversation and games The woman herself, on a pretext, will be present Betel-leaf, garland, cosmetics etc are articles for present The arrangement of *Kalāgoṣṭhī* (a meeting for the display of arts ?) is also recommended For establishing friendship there may be exchange of the upper garment and the ring Through the *Pīthamarda* and the like the man should be told—'why should you take the trouble of going at night, please stay on here' The articles indicating sexual union should be placed before him

There are also other means of attracting the mind of the hero Even if sexual intercourse is done and if as accessories wine, betel-leaf etc are given the heroine should praise them eloquently Moreover, she will express eagerness to be his pupil in the 64 arts She will do in a lonely place what is delightful to the hero She will express supreme satisfaction after cohabiting with him By gestures and hints she will make him feel that she is very much devoted to him She will express grief at the sorrow of the hero She will express her desire to go abroad with him When the hero is about to start for a journey, she will earnestly request him to return soon

Means are stated for getting rid of a hero Though he gives much, yet he will be accused of giving too little By various intrigues he will be removed At the time of sexual union, the heroine will show indifference If he is poor, he should be openly removed Before dismissing one, another should be resorted to

The substance of the advice of an old procuress to a young harlot in the *Kuttanīmata*, is as follows

You should pretend love for attracting rich men, the motive being nothing but appropriating his money The author mentions some wiles of harlots too

In the *Samayamātṛkā* we find how a young courtesan, aided by an old bawd, ensnared a rich young man and took away the wealth from his parents

The activities of a courtesan, depicted in the *Deśopodeśa*, are curious She makes a wise man foolish, a rich man

destitute, and an honest man a thief Though old, she is ever eager to preserve her beauty Though devoid of grace, she keeps her face half-covered, plump breasts uncovered and hairs dishevelled, thus she tries to attract people She ensnares a man by a peculiar glance At the arrival of a rich man she behaves like a butcher at the sight of a sheep She is an adept in uttering flattering words full of artificial affection

The conduct of prostitutes has been dealt with in the *Kalāvilāsa* The author has mentioned the 64 arts to be learnt by them Among these are side-long glance, deception of friends, weeping, feigned sleep, pretending death, theft, means of bringing one under control Kṣemendra declares that they are many-hearted, myriad-tongued, multi-armed and experienced in various ruses So, it is difficult to understand their motive

From the *Dhammapada Atthakathā* (I, p 3, III p 30) we learn that a courtesan, Sirimā by name, was engaged by a rich man for a fortnight at 1000 coins a night

Position of prostitutes in society

An honest man should look upon a prostitute with contempt Dāmodaragupta has warned people against the trap laid by prostitutes In certain cases, such women enjoyed some respect The leaders of society looked upon them as a part of the society The *Arthaśāstra* records humane treatment to them There are references in Dharmasūtras to respect shown to them There was the practice of engaging courtesans to receive distinguished guests and in the processions of members of the royal family (Rām ii 36 3, vi 127 3-5) It may be noted that we learn of Geisha girls of Japan entertaining the guests

The *Arthaśāstra* provides (2 27) that if a prostitute, in defiance of the royal order, is unwilling to meet a man she shall be whipped or shall pay a fine of 5000 paṇas If even after accepting money, she does not yield her body to a man then she shall pay a fine of double the amount received

It is a punishable offence to enjoy a prostitute against her will or to enjoy her virgin girl

That the prostitutes were not regarded as people beyond the society is proved by the provision that, in *Durgāpūjā*, the

soil at the door of a prostitute is necessary According to Purānas, even a Brāhmana, versed in the Veda, can accept gifts from a prostitute

From the *Arthaśāstra* prostitution appears to have been controlled by the state A high functionary, called *Ganikādhyaksa*, was in charge of this department A part of the income from prostitutes' quarters was paid as revenue Sometimes they were used for political ends The king tried to bring about ruin by creating quarrel among the heads of *Samghas* (monastery) who were rebellious (2 1 34-39) Every prostitute had to pay double the earnings of a day every month as revenue (2 27)

A courtesan is found as an attendant in the royal harem (1 20 20) It is her duty to hold the umbrella, carry water-pots and to use a hand-fan

Harlot's quarters appear to have been situated in the south of the city (2 4 11) They were also allowed to live near a military camp and by the side of big roads (10 1 10) In the *Mahābhāsya* (iv 2 40), we find that courtesans used to live in groups called *Gānikyas*

The *Arthaśātra* refers to *Bandhakīposakas* They used to run brothels with beautiful girls A part of the income thus derived went to the exhequer (5 2 28)

A courtesan could be set free on payment of 2400 *Panas*

The word *Visakanyā* occurs in the *Mudrārāsasa* and some other works A woman was slowly poisoned till at last her whole body became so dangerous that even her breath became fatal Such a woman was set against a passionate enemy It was believed that sexual union with her was sure to cause death to a man

The word *devadāsī* is very old It occurs in the *Arthaśāstra*, *Rājatarangini* etc Devadāsīs cannot be definitely classed as courtesans They were, to some extent, like the Vestal Virgins of Rome They were dedicated for dancing in temples The *Arthaśāstra* states (2 23 2) that they were appointed for a fixed period after which they were engaged in spinning

Description of Courtesans in anthologies

Some anthologies quote verses from various texts about courtesans We translate below some such verses from the *Sadukti-karnāmrta* of Śrīdharadāsa of the court of Laksmanasena (12th cent) of Bengal

1 The hero has no jealousy towards a woman of a family He does not enjoy himself fearlessly with the wife of another But, both these have happened in the case of the prostitute O, it is for this reason that they are the entire property of Cupid 556

2 It seems that Cupid, reduced to ashes in ancient times by the flames of the fire of the angry Śiva, is being revived by the glances of the courtesan 557

3 The courtesans, decorated with dark hair, dyed with the colour of betel-leaves, adorned with leafy decorations of their own brightness, marks of teeth and nails, beautiful on account of glances with trembling eye-corners and ear-lotuses wearing bright ornaments, are agitating Cupid himself 558

4 The courtesan, moving slowly under the weight of the hips, goes while revealing nail-marks on her breasts due to the raising of hands on the pretext of putting the slightly dropping garland in the proper place, rendering the mind restless by her very long eyes like a garland of blue lotuses, with the jingling sound of the bangles shaking due to the movement of the hands 559

5 The courtesan, affectionate for a moment, fickle-minded like a sea-wave, after finishing her business robs a man of all his belongings and then leaves his like lac-dye that has been wiped out 560

In various works, many incidents relating to courtesans have been described In this connexion, we remember Vasantasenā of the *Mrcchakatika* She is highly accomplished, and does not hanker after money She loves Cārudatta because of his virtues though he is poor For the little son of Cārudatta she does not hesitate to put off all her ornaments She spurns the overtures of the passionate Śakāra Even when she was

on the point of being strangled she paid obeisance to Cārudutta She is an example of the fact that like Candramukhī of the novelist, Sarat Chandra, even courtesans may have pure love and tendereness in her heart

Madanamālā of the *Kathāsarit-sāgara,* Kuberasenā of the *Pariśiṣṭaparvan* are some other noble courtesans They remind us of the Hetaera of the Periclean Athens, the Aspasia and Phrynas of ancient Greece

Various literary works describe the fickle mind, wiles, greed, heartlessness, deceitfulness etc of prostitutes The one-act plays, known as *Caturbhāṇī,* describe various aspects of the life of harlots They also describe the conduct of passionate people attached to them From these works we learn that, besides *Viṭa, Dhūrta* etc, the sons of rich men sometimes were attached to prostitutes Among them were sons of merchants and bankers Even sons of Brāhmanas are stated to have been addicted to this vice Some of the Buddhist monks secretly indulged in it Monks are seen to move surreptitiously in convents to satisfy their passion In the *Ubhayābhisārikā* we meet with a woman who, though a wandering mendicant, was a secret prostitute In the *Dhurtaviṭa-saṃvāda,* the Viṭa tells a merchant's son that it is more pleasant to enjoy a prostitute than one's married wife So, he should not agree to the marriage proposed by his father From these works we further learn that there were regular prostitutes' quarters in ancient Pātaliputra and Ujjayinī and that many people used to frequent those places Some of harlots, mentioned in these works, appear to have had genuine love and not swayed merely by passion and carnality Some of them were accomplished and experienced in dance, music, acting etc A noteworthy trait of their character was impeccable etiquette and dealings

In sex-enjoyment there was no consideration of castes A Brāhmana is seen enjoying a Buddhist nun

Some prostitutes show the tendency of intercourse by day It seems the dramatist introduced it to evoke laughter, in that age, too, this tendency was ridiculous

In those times, it seems Yavanīs[1] were in the keeping of some people (*Pādatāḍitaka*, p 109, line 18) This word, generally denoting a foreigner, stood for Greek or Persian women

Quite a number of farcical plays contain themes centering round harlots In the *Bhagavadajjukīya*, the strange story of a courtesan is amusing As the soul of an ascetic entered the body of a courtesan and the soul of a courtesan entered that of the ascetic, each started behaving like the other

In the *Latakamelaka* of Śaṃkhadhara (12 cent) is described the assembly of many people desiring the company of a bawd Of these there are a professor, a Digambara Jain, a Kāpālika, the village headman, a Brāhmana, a preceptor, a Buddhist monk This work reveals the dirty personal life of some upper class people wearing masks of culture

Jagadīśvara's *Hāsyārnava* describes the arrival of many people in the house of one courtesan Among them are the royal priest, physician etc The priest and the pupil fall out over the ownership of the courtesan

Jyotirīśvaras' *Dhūrta-samāgama* (14th cent) describes the rivalry of an ascetic and his pupil for the possession of one courtesan At last, the Brāhmana mediator himself takes her

The *Kautuka-sarvasva* of Gopīnātha describes the evil deeds of an immoral king for getting a courtesan coveted by many people

The *Kautuka-ratnākara* of Kavitārkika states that a king engaged a courtesan in place of his abducted queen

1 The word *Yavanikā*, denoting the drop-curtain in a Sanskrit drama, has led some scholars to infer Greek influence on Indian drama According to some, the *Yavanikā* was so called as it was made of Persian tapestries , *yavana* denotes a Persian

CHAPTER XXIII

WORKS DEALING WITH SEXOLOGY

Kāma stands third in the list of the four ends of life As there are Dharmaśāstra and Arthaśāstra, there is Kāmasastra too When this Śāstra originated it is not known Of the extant works on sexology, the most important, well-known, authoritative and detailed one is the *Kāmasūtra* of Vātsyāyana. Vātsyāyana is variously assigned to periods ranging from the third century to the sixth Some think that he flourished before Kālidāsa We shall deal with the contents of this work later on In this work, there is an account of the legendary origin of sexual science

In the historical account of the origin of this science, the names of the authors are chronologically as follows Auddālaki[1] Śvetaketu, Pañcāla Vābhravya, Dattaka, Cārāyana, Suvarnanābha, Gonardīya, Gonikāputra and Kucumāra

The *Brhadāranyaka Upanisad* (vi 2) contains some information about sex-life In it the sexual act has been symbolically stated This act is fancied as a sacrifice , the woman is fire, the seed cast into her leads to the birth of a man.

It cannot be definitely said to what extent Vātsyāsyana is original and how much he has borrowed from his predecessors

We shall deal briefly with the later writers and their works

The *Ratirahasya of* Kokkoka (C 12th cent) is the earliest work of this age The contents of its fifteen chapters are respectively as follows division of women into four classes, the periodicity of their passion and methods of enjoying them, the places exciting passion and the times appropriate for coition, division of men and women in accordance with the

1 In the *Mahābhārata* (I 122, Calcutta) it is stated that it was he who, for the first time, introduced discipline in sex-life Before him promiscuous and unrestrained sex-enjoyment prevailed in the society

dimension of their organs, various types of sexual union, division of women according to their nature and temperament, women of different regions and their sexual characteristics, embrace, kiss, nailmarks, caressing etc, selection of the wife and the creation of confidence in the wife and winning her love, behaviour of the wife, various stages of love and premarital relation, means of familiarity with women, real and magical methods of attracting their mind, augmentation of sexual power by medicine etc, recovery of the lost power and the accomplishment of other objects

Generally speaking, Kokkoka's work is an echo of that of Vātsyāyana, but not a carbon copy The spots on the female body, exciting passion, are toes, feet, knees, thighs, navel, breast, cheeks, lips etc

According to the appearance, nature and some other characteristics, women are divided into the following classes Padminī, Śaṃkhinī, Citrinī and Hastinī In this classification, Kokkoka appears to have followed Bharata's *Nāṭyaśāstra* (22)

Nādīkṣobhana is an addition by Kokkoka (X 5-9) It means a particular act of the male designed to excite the passion of the female partner

Kokkoka has made some other innovations which are not very noteworthy

The *Padmaśrī* of the Buddhist Nāgarasarvasva was, perhaps, composed sometime between the tenth century and the fourteenth. Based mainly on the works of Vātsyāyana and Kokkoka, it contains thirty-eight chapters The author has introduced some new matters of which the following deserve mention the merit and demerit of jewels worn by the people, the means of getting a child (III), processes for making various cosmetics (IV).

In matters relating to the places exciting passion, the rise of passion, embrace, kiss etc the author has followed Kokkoka or earlier writers Kisses are divived into two classes, with sound and without sound The latter is divided into seven varieties A woman's kiss with sound has also seven varieties.

The *Ratiratna-pradīpikā* of Devarāja is a longer version of Kokkoka's work According to some, the author is identical with king Devarāja II of Vijayanagar (d 1446 A D)

In two chapters has been discussed Nābhikṣobhana or the exciting of a woman's passion by a man before sexual union

Bāhyarata and the seizing of a woman by a man in sexual union seem be discussed in this work alone Seizure is fourfold

Badahamūsti—in it the woman's body is tightly gripped

Vestitaka—Catching the woman by her forelock

Kṛtagranthika—entwining a woman's body like a creeper

Samakrsti—pulling the woman's neck and breasts with the thumb and other fingers Seizing the hair is also a distinct mode

Yaśodhara's (C 13th cent) commentary on the *Kāmasūtra,* called *Jayamangalā*, is important in the history of erotics Besides commenting on the text, he has introduced certain new matters Instead of the conventional four stages of life, he has indicated three viz immaturity till the sixteenth year, youth upto seventy and then moksa or liberation is to be thought of

Vātsyāyana has described various modes of sex-act But, Yaśodhara has stated two main divisions, viz *Śuddha* and *Saṃkīrna* Each again is sub-divided

The *Pañcasāyaka* of the Maithila *Jyotiriśvara* (14th cent 1st half) is another work The *Rāgaśekhara* also is attributed to him The title *Pañcasāyaka* is poetical It means one having five arrows, *i e*, *Cupid* It is written in five chapters called *Sāyakas* In it the earlier authors have been mainly followed, The author, however, introduced some new matters In the section called *Aupanisadika* Vātsyāyana, paying more attention to men, has suggested ways and medicines for increasing the sexual vigour For a woman, he has prescribed merely means for expanding and contracting the vagina (vii 2 36-37) But, Jyotirīśvara has suggested means for increasing the size of the breasts, causing menstrual flow, impregnation, curing barrenness increasing the growth of hair, depilation etc

Regardıng man's tooth-marks on the woman's body, Vātsyāyana's *Khandābhrcka* only has been taken by Jyotırīśvara It means cırcular marks made by all the teeth on the breaths He has mentıoned two varıetıes called *Vıdruma* and *Kolacarva* (ıv 59-63)

The *Anangaranga* of Kalyānamalla (16th cent) ıs ın ten chapters Though he draws upon the works of Vātsyāyana etc , yet he has made some ınnovatıons Perhaps, ıt ıs the only work that deals wıth *Lıngaksobhara* The author has got somethıng new to say ın the descrıptıon of the female organ Son of Gajamalla and grandson of Traılokyacandra, the author wrote ıt for the dıversıon of Lād Khān, son of Ahmad Khan of Ayodhyā

The *Kandarpa-cūdāmanı* (1577 A D) of Vīrabhadra, the Vaghela kıng, ıs an elaborate work Accordıng to the author hımself, the work ıs only a longer versıon of Vātsyāyana's

There ıs nothıng new ın the *Ratıśāstra* ascrıbed to Nāgārjuna It seems to be a late work

The *Śrngāra-mañjarī* of Ālı Akbar Shāh (18th cent) ıs wrıtten ın Telugu, and translated ınto Sanskrıt

Besıdes the above, the followıng works on sexology are avaılable ın prınt[1]

Kāmakñjalatā—a compılatıon of earlıer and rare works on sexology

Kāmakautūhala of Hemādrı—deals wıth sexology, treatment of some dıseases Wrıtten ın verse

Kāmaśāstra of Goraksanātha Yogīndra—contaıns prophecıes about sex-lıfe and ınformatıon about medıcınes

Kāmaśāstra or Śukrasamhıtā or Ārogyasındhu of Raṅganātha Sakhārām Lale

Some of the unpublıshed works on sexology are as follows[1]

Anangadīpıkā of Rudrabhatta
Kāmakalāvılāsa of Sūryanārāyana

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1 For the edıtıons, see *New Catalogus Catalogorum*, ed V Raghavan, Madras

2 See *New Catalogus* etc , *op cıt*

Kāmakalpalatā of Maithila Krsnapati
Kāmakārikā
Kāmakautūhala of Hemanātha
Kāmakaumudī of Ratinātha Chakrabarti
Kāmatantra of Śiva
Kāmadayinī of Yadunātha Sinha
Kāmadīpikā
Kāmapradīpa of Gunākara
Kāmaprabodha of Vyāsajanārdana Composed under the patronage of Anūpasimha, king of Bikaner (1674-1709 A D)
Kāmaprābhrta of Keśava
Kāmaśāstra—ascribed to Nāgārjuna Drawn upon by Svarūpa in his Kāmaśāstra
Kāmaśāstra—compilation of parts of different works It contains many pictures
Kāmasarvasva—mentioned in the *Sañjīvanī* comm on the *Gītagovinda*
Kāmasāra of Kāmadeva
Kāmasūtra of Ghodayamuha—mentioned in the *Aupapatika* (41) and *Nāndisūtra.*
Kāmānuśāsana
Kāminikāma-kautuka of Krśnakānta Vidyāvāgīsa Bhattacharya, a typically Bengali name

Natyasastra and Almkarasastra

In the following works, there are descriptions of erotic gestures and feelings of the hero and the heroine, particularly of the latter

Nātyaśāstra of Bharata (C earlier than 4th or 5th cent. A D)
Sāhityadarpana of Viśvanātha (C 1st half of 14th cent).
Daśarūpaka of Dhanañjaya (1st, quarter of the 10th cent)
Rasārnava-sudhākara of Simhabhūpāla who was perhaps indentical with Śimgama Nāyadu, king of Venkatagiri-1st half of 14th cent)

We shall deal briefly with the various matters in connexion with sex-life

Prostitution

Vātsyāyana has dealt exhaustively with courtesans Considerable information about the enjoyment of courtesans is available in the *Kuttanīmata* of Dāmodaragupta (last half of 8th cent), *Samayomātṛkā, Deśopadeśa* and *Kalāvilāsa* of Ksemendra (11th cent) It may be noted that, barring Vātsyāyana, all the writers on the subject are Kashmirian It seems that prostitution thrived in the terrestrial heaven of Kashmir

Chapter 24 of the aforesaid *Nāṭyaśāstra* deals with prostitution

The *Arthaśāstra* deals with the administrative aspect of this profession

Considerable information on sexology is recorded in various works right from the Vedic age As we have seen earlier, the *Rgveda* refers to the mutual attachment of men and women, illicit sexual union etc The word *Viśya* I 126.5 used in this Veda, perhaps led to the use of *Veśyā* in later times In the *Atharvaveda* (XV) there is mention of *Vrātya,* in connexion with the *Vrātya* rite

Pānini (C 4th cent B C) and Patañjali (C 2nd cent B C) refer to the destruction of foetus (*Astādhyāyī* vi 1 174, *Mahābhāsya* vi 4 174) The object was, perhaps, to destroy an illegitimate issue Patañjali uses the word *strīkitava* (i 1, 40) , it means abduction of women

The *Rāmāyana* and the *Mahābhārata* reveal sex-life, as we have noticed already

The various Purānas testify to vulgar practices in sex-life In the *Agnipurāna* (227 36 50-54) among the offences punishable with death are mentioned adultery of a man of a lower caste with a woman of a higher one, seducing the queen etc.

In Smrtiśāstra, expiation and punishment are ordained for illicit sexual relation Unnatural sexual union, *e g* with an animal, appears to have been practised by some Abduction of women is mentioned among the eighteen titles of dispute

In Tantra, sexual enjoyment is one of the five means of *Sādhana* Tantra appears to approve the kind of sexual union

condemned in *Smṛti* But, it is erroneous to presume that Tantra allows unrestrained lecherous practices Though this Śāstra favours liberation (*mukti*) through enjoyment (*bhukti*), yet it clearly directs the devotee to practise self-restraint

Various prose, poetical and dramatic works refer to unrestrained sex-life In the *Kautuka-ratnākara* of Kavitārkika (16th cent) a Brāhmana is abducting the queen In the *Dhūrtanartaka* of Sāmarāja Dikṣita (17th cent) an ascetic has fallen in love with a dancing girl In the *Avimāraka* of Bhāsa, a prince, in the guise of a sheep-killer, has fallen in love with a princess of another land The dramas of Kālidāsa deal with the erotic sentiment A part of the themes of the *Nāṭikās* like the *Ratnāvalī* is the king's attachment to another woman The *Kathāsarit-sāgara* contains many stories about illicit sexual union and the consequent misery

The prose romances *Daśakumāra-carita, Kādambarī* and *Vāsavadattā* deal with romantic love

In the society of classical Sanskrit literature, particularly in the royal palace, we find courtesans and disguised prostitutes moving about In the dramas, prostitutes appear in different ways In the *Mṛcchakaṭika*, the courtesan, Vasantasenā, is a noble woman In the *Caturbhāṇī*, prostitutes of a lower order are found In the *Laṭakamelaka* of Śaṃkhadhara (C 12th cent) the old Danturā is found to conduct the business through her young daughter, Madanamañjarī In the *Dhūrtasamāgama* of Kaviśekhara (14th cent) the mendicant Viśvanagara is in love with the prostitute Anangasenā, Much information is available in Gopīnātha's *Kautuka-sarvasa*, Mahendravikrama's *Mattavilāsa* etc

In anthologies like the *Sadukti-karṇāmṛta* many verses dealing with prostitutes and their enjoyment have been quoted

Prostitution has been dealt with in some Pāli works, particularly Jātakas The *Therīgāthā* deserves mention in this connextion

The subject is treated in the *Karpūramañjarī, Karakaṇḍacariu, Bhavisayatta-kahā* etc

The *Sattasaī* of Hāla refers to illicit sex-relations

CHAPTER XXIV

SEXUAL LIFE

Prostitution, included in sex-life, has been dealt with separately At present, the main aspects of sexual life in ancient Indian society will be discussed Our principal source of information is Vātsyāyana's *Kāmasūtra*

In the chapter on offences and offenders an outline of sex-life from the Vedic age to the classical times has been given

Vedic Age

In the *Rgveda* (x 40 2) we find the brother-in-law intimately connected with the widowed wife of his brother in an immoral way An exciting instance of illicit sex-relation in the Rv (x 61 5-7) is intercourse of Rudra with his daughter, Usas We have reference (x 162 5) to incestual sex-relation between the brother and the sister as a result of which the sister conceives Certain similes have been enlivened by introducing sexual matters In I 124 7 it is stated that Usas lays bare her body as a woman does to her lover In I-92 4 the same goddess is said to exhibit her body as a dancing girl bares her bosom to attract the attention of all In x 86 the role of a woman in coition is stated At one place (I 26 7) there is description of the female organ The words *jāra* (paramour) and *jārinī* (concubine) in I 66 4, V 38-4 testify to the influence of the sex-impulse

In that age, there was the practice of destroying illegitimate children (II 29 1, VII 46 24) In the Vedic society, we find women proceeding to the place of tryst and passionate women seeking the company of men for money (I 24 7)

There is prayer for augmenting the procreative capacity of men The word *Śiśnadeva* occurs in the Rv. It may mean either one who plays with one's genital organ, *i e* satisfies the sex-impulse or one whose deity is the phallus

The *Atharvaveda* refers (viii 6 7) to incestual relation between father and daughter and brother and sister It mentions women keeping the tryst There are references to charms and things for increasing man's sexual vigour (*Kauśika-sūtra* 40 14 Av. iv 4)

An instance of the impact of sex-life on the Veda is furnished by the conception of Mahānagnī (the great naked woman) in the Av (xiv 1 36, xx 136 5) , Rv (Khila v 22 6) There is a reference also to Mahānagna (the great naked man) who enjoys Mahānagnī

Age of Brahmanas

The *Śatapatha* contains (xiii 2.9 8) the words *āryajārā śūdrā* It seems that men of higher castes used to keep *Śūdra* women as concubines

A glaring example of improper sexual desire is Prajāpati's wish for union with his own daughter Versions of this legend occur in the *Śatapatha* (i 2 5 15-16) The fire-altar has been fancied as a *Yoṣā* or female At one place, the altar has been conceived as a female organ and the kindling of fire as the procreation of issues

Upanisad

In the *Bṛhadāraṇyaka* (vi 2-12 etc) the woman is fancied as sacrificial fire and sexual union as the sacrificial act But, partiality towards males is obvious in vi 4 6 7 where it is stated that an unwilling woman must be compelled to allow herself to be enjoyed

Age of Sutras

In it we find references to paramours (*Bharadvāja-gṛhya*, ii 28 61 4), illegitimate child (*Sānkhāyana-gṛhya* iii 13 5), pre-marital conception (*Gautama-dharma sūtra* xviii 34) etc.

Patanjali

The *Mahābhāsya* hints (vi 1.2) at the easy morals of the wives of actors Conception before marriage (iv 1 116), destruction of foetus (vi 4 174) etc are also mentioned.

The Ramayana, Mahabharata

In the *Rāmāyana,* there is reference to the Rāksasa and Paiśāca forms of marriage In the former, the girl was forcibly carried away and married In the second, the girl was enjoyed in sleep and then married

The passionate Śūrpanakhā sought the love of Rāma and Laksmana Even gods were not free from this propensity Indra himself enjoyed Ahalyā, wife of sage Gautama, in his absence The epic mentions the appointment of women for the service of the soldiers

The *Mahābhārata* testifies to the free enjoyment of Śūdra women by the members of the upper classes The best example of a girl's premarital sexual union is Kuntī's son Karna born in her maidenhood The Ādiparvan tells us that women could freely enjoy themselves with men except at their monthly periods A kind of sons was called *Pranīta* , he was begotten on a married woman by a person other than her husband The very designation of *Svairinīja* son conveys the manner of his birth The son, called *Jñātireta,* was begotten on a woman by a kinsman excepting the brother of her husband

There are many instances of a householder's having sexual enjoyment with his female slave or servant (*e g* Virāta 15, 16 ; Sabhā 71 3, Ādi 106 24) In this manner was born Vidura. What is surprising is that sometimes the wife acquiesced in such an act Rich people had women in their keeping During the pregnancy of Gāndhārī a Vaiśya woman used to live with *Dhrtarāstra* A person, named Yuyutsu, was born out of their union (Ādi 115 41-43)

There was the custom of one begetting a child on the wife of another Uddālaka had his son, Śvetaketu, begotten on his wife by his disciple (Śānti 35 22)

We are told that it was nothing wrong for a man to enjoy a willing woman unless she belonged to a prohibited caste (Ādi 78 33)

An instance of natural attachment of a woman to a man is furnished by Hidimbā who was attached to Bhīma

From the legend of Dīrghatamas (I 104) it seems that sometimes sexual enjoyments were free ; the nuptial tie was not

always there That sage is said to have enjoyed Sudesnā, the queen, at the wish of the king and, as a result, there were five issues Enjoyment of her *Śūdra* attendant also led to the birth of many issues

It is stated (I 122) that, at one time, even married women, instead of accepting the guardianship of their husbands or anybody else, used freely to associate with other men, such an act was not regarded as sinful From II 26, 32 40, xii, 102, 26 etc it seems that, in those times, there was no marriage-tie at all, men and women used to be united at mutual will From VIII 40 it appears that free sex-unions were current among some tribes

The epics make it clear that men and women, belonging to different cultures, also were attracted to one another This is seen even between gods and human beings The Sun-god was passionate towards Kuntī

In the *Mahābhārata*, we find certain customs which are reprehensible according to modern standards One such practice was to offer one's own wife for the enjoyment of another King Mitrasaha is said to have offered his wife to Vaśistha (XII 234 32, XIII 137 18) Vrsādarbhi gave his wife for the enjoyment of Yuvanāśva (XII 234–35)

For the enjoyment of an honoured guest one's wife was temporarily or permanently offered (V 85 13, 14, 86 8)

Yudhisthira used to maintain a large number of beautiful, well-dressed female slaves, experienced in various arts, for the entertainment of Brāhmanas, ministers, kings etc (II 61 8 onward)

Incidentally it may be noted that the practice of entertaining guests by the host's daughter or wife prevailed in many countries of the world [1]

Puranic Age

The seduction by Soma of his preceptor's wife, Tārā, the birth of Bharadvāja as a result of the union of Budha and Ilā etc point to laxity in the sexual life of this age

1 Vide Mclenman, *Primitive Marriage*, p 96

Smrtisastra

According to Manu (ix 94), a man of thirty years of age should marry a girl of twelve or a man of twenty-four should marry a girl of eight In the case of a woman, no fixed age is intended, the above is merely a limit In the Dharmasūtra of Grhyasūtra etc, a *nagnikā* is commendable in marriage, it means a girl before the commencement of the menstrual flow. According to the *Gautama-dharmasūtra* (xviii 20-23), a girl be married before this Manu (ix 4) also appears to intend the same rule according to Kullūka's commentary

Fornication, homosexuality, sexual relation of a man with a female animal, adultery—these occur in Smrti

Yāj states twelve kinds of sons (ii 8 128, 132) Among them are *Ksetraja, i e* a son begotten by one on the wife of another, Gūdhaja (begotten by a man on a woman in the absence of her husband), *Sahodhaja* (son of a woman who was pregnant before marriage) These indicate moral laxity of the age concerned

In the *Manu-smrti* (iii 21) and some other works, there are eight forms of marriage of which *Rāksasa, Paiśāca* and *Gāndharva* are condemned The most hated is the *Paiśāca* in which a girl is enjoyed when she is asleep or intoxicated and then married

Kamasutra

The work by Vātsyāyana is in seven sections called *Adhikaranas*[1]

Section I refers to 64 arts of which the following are important and should be learnt by women, music, dance, paintings, literature, acting, magic, dice-playing, youthful games, knowledge about fragrant substances, flowers, jewels etc, needle-work, gardening, house-decoration, making beds and carpets, making garlands and necklaces etc, dyeing of teeth, nails, hair and garments, preparation of delicious drinks, making baskets etc, making things with clay and metals etc.

1 There is difference in the order of the sections in different editions

Besides the above, 64 *Kāmakalās* (erotic arts) are also mentioned

According to *Vātsyāyana,* the following women are fit for enjoyment a woman of a high or low caste, married woman, *punarbhū* (remarried widow) etc He refers to the easy morals of the following a female ascetic, actress, craftswoman, a village damsel belonging to the labourer class (V 5 5-7) As regards widows, it seems that they were allowed to have sexual enjoyment with their chosen partners (I 5 7, IV 2-39-59)

Section II, called *Sāṃprayogika,*[1] discusses various modes of sexual enjoyment according to age, desire, temperament, duration, degrees of pleasure etc Incidentally have been discussed the modes of satisfaction of women belonging to different regions (II 5 20-34) Unnatural modes of sexual enjoyment have also been discussed (II 9) There is reference (II 7 23) to the physical injury of a woman caused by her partner due to excessive passion We shall refer to just two modes of unnatural sexual gratification One is *sanghātaka*[2] (II vi 40, 42) In it three persons are involved in amorous action or intercourse The other is *Goyūthika* (II vi 41-42) In it one man is engaged in sex-act simultaneously with more than two women or one woman is engaged with more than two men

Vātsyāyana mentions oral congress, *e g* *Kākila* in which there is mutual action of the partners The *Kāmaśāstra* writers, of course, condeman extra-vaginal and *Vimārga* (artificial) coitus

In the third section, called *Kanyā-saṃprayuktaka,* there is discussion about courtship, marriage etc Having mentioned the different kinds of girls, unfit for marriage, the author holds that, in selecting a bride, the man's like or dislike is the final criterion He says how one should woo a girl of mature and immature age before and after marriage It seems that the strict injunction of Smṛti works to marry a girl before

1 *Samprayoga* means sexual intercourse In this sense, the word *abhimardana* is also used in the *Divyavadana* The word *avamardana* has also been used at places

2 It occurs also in the *Ratirahasya,* x 41

puberty was not always observed According to Vātsyāyana, the age of the bride should be three or more years less than that of the groom In order to attract the mind of the girl, the lover should behave neither favourably nor unfavourably with her directly A man should not be too familiar or devoted to her The man should not be excessively grave either

Of all the forms of marriage, Gāndharva is regarded as the best, because it is the result of mutual consent and is performed easily The author appears to have believed in free love

The fourth section, called *Bhāryādhikarika*, discusses the conduct of a married woman, particularly in respect of her husband and co-wife The author has given rules designed to build up a beautiful happy conjugal life A married woman sometimes appears to have been unhappy due to the vogue of polyandry and the existence of paramours (III 4-55-56) The author characterises the wife as *durbhagā* (unfortunate) if, though chaste, she is neglected His advice to such a woman is—make the best of what you have

In the fifth section, called *Paradārika*, there is discussion about the inconvenience, danger and future consequences of adultery Although mutual attraction between a beautiful woman and a handsome man is usual, yet before proceeding one should carefully examine the present and future circumstances and study the mind and conduct of the other side The author has described the women easy or difficult to obtain, and a man who can or cannot win over the heart of another's wife He has also given direction regarding the method of examining the mind of another's wife, making a proposal to her directly or through a medium etc He has, however, sounded a note of warning about the fickleness of human mind (V 3 6) and the danger involved in simultaneously trying to win over the heart of more women than one (V 2 25) The author forbids a woman to declare her love directly to a man of position who has more wives than one or is attached to prostitutes In such a case, various tactics and the help of others are necessary The wives of some such adulterous persons have their sexual desire unsatisfied They try to satisfy their desire by secret lovers, artificial phallus and various other

bad things (V 6 1-3) The author refers to a woman enjoying with her husband's brother or even her step-son (5 1 52, 6 36)

It is interesting to note that Vātsyāyana, refers to circumcission which is known to have been in vogue in the Deccan, it prevails among the Muslims even today

In the *Ratiśāstra* (ed A Ghosh) adultery has been severely condemned

The contents of the sixth section, called *Vaiśika* have been briefly discussed in connexion with prostitution

The seventh chapter, called *Aupaniṣadika*, discusses, *inter alia*, the methods of perpetuating youth, increasing physical charm, keeping men and women under control, increasing sexual vigour, exciting passion, use of artificial things for the satisfaction of carnal desire There is provision for the temporary marriage of a prostitute Such a marriage used to last for one year A man could keep a prostitute even after this limit if he so desired In the *Śṛṅgārabhūṣana* and some other one-act plays of South India, the document of such a marriage is called *Kalatrapatrikā*

Different classes of men and women

A man is of three classes according to the dimension of their organs They are *Śaśaka*, *Vṛṣa* and *Aśva* Elsewhere the *Mṛga* class of men has also been mentioned Women also are of three types—*Mṛgī*, *Vaḍavā*, *Hastinī* (*Kāma S* Sāmprayogika I 1) The enjoyment of women in the above order is of increasing pleasure Elsewhere women are divided into four classes, *i e* *Padminī*, *Citrinī* *Śankhinī* and *Hastinī* According to the *Ratiśastra*, the characteristics of their sex-life are as follows *Padminī* is devoted to her husband *Citrinī* does not desire sexual union with another man and is satisfied with a little intercourse *Śankhinī* is consumed with the fire of passion, and wants to be satisfied by a man other than her husband *Hastinī* shamelessly enjoys herself with another man

The following pairs are commendable

Padminī—Śaśaka
Citrinī—Mṛga
Śaṅkhinī—Vṛsa
Hastinī—Aśva

Time permitted or prohibited for sexul enjoyment

Intercourse is injurious for one's health and that of the progeny at the following times and days daytime, first three watches of the night, morning, new moon, full moon, festive occasion, first four nights from menstruation, eleventh and thirteenth nights, on the eve of departure for a place, Intercourse in the first three nights from mensturation may harm the health of the husband and produce a deformed or short-lived son It is stated that, at that time, the flow of blood in a woman becomes rapid, and the semen of the husband does not enter copiously into the womb of the wife

Also harmful is intercourse when the partners are sick or have a disturbed mind

Intercourse is harmful when the foetus is developed It is forbidden with a pregnant woman

Coition with a woman before her maturity may produce an issue who is sick and short-lived There may not be any more issue

For a man, desiring issues, the first sixteen nights after menstruation are commendable According to some modern sexologists, the following period is called safe for those who do not want issues

Good and bad signs of women

According to signs, women are divided into three classes in the *Ratiśāstra* These are *Uttama* (best), *Madhyama* (medium) and *Adhama* (worst) A woman of the first class is as follows not very tall nor very short, bright-complexioned, slim, moving like an elephant, like a lotus, having red palms, pious, having breasts of a medium size A woman of the second class is as follows having long flowing hair, devoid of idleness, firm-minded, indifferent to pleasure and pain, having a smiling face, deep navel, sweet-tongued, neat and clean, pious, small eater, loving all creatures, respectful to superiors A woman of the worst type is as follows thin hands and feet, hairy body, bluish yellow eyes, long teeth, garrulous, laughing loudly, rough skin, large belly, shameless, ill-tempered, unsteady mind, long hands and feet, short hair, devoid of feminine feelings

Practices prohibited in monthly periods

The following practices are prohibited crying loudly, talking too much, laughing loudly, hearing a rough sound, hard labour , these practices may pollute the blood and lead to various diseases As a result of obstructing motions and urine, fast, cohabitation etc during this period the following diseases may be caused Metrorhagia, Leucorrhoea, Dismenarrhoea, Hysteria etc

Rules and regulations about the moulding of the shape and nature of children yet unborn

The *Ratiśāstra* discusses how the conduct of the husband and wife is responsible for the moulding of the nature of their children

The son of a *Padminī* and *Śaśaka* becomes pious, and their daughter pure-minded The son of the union of Citrinī and Mrga becomes beautiful like a Gandharva and daughter like a nymph The son of a *Śankhinī* and *Vrsa* becomes a famous fighter and the daughter a demoness The son of a *Hastinī* and *Aśva* becomes strong like a demon and the daughter extremely passionate

If a *Hastinī* conceives in what is called *Mahendraksana*, her son becomes god-like and possessed of the signs of a *Śaśaka* type of man If a *Śankhinī* conceives during the ascendancy of Varuna or Śatabhiṣā star, her son or daughter becomes extremely lucky If a son be born to a pair of *Citrinī* and *Mrga* in an inauspicious moment, he becomes very poor The son of a *Padminī* and *Śaśaka* becomes pious and learned

Sexology in Ayurveda

The vast Āyurveda contains information about sexology. A brief account is given below

It is not correct to think that, in ancient times, all used to support unrestricted child-birth and that contraception was unknown

Some methods for contraception, stopping of the menstrual flow, helping menstrual flow, abortion etc are as follows

A drink of milk with the following in the monthly period

prevents conception *pipul, vidanga,* fried *sohāgā*[1] Similar is the result if a woman in her period takes for three days *Javā*-flowers crushed with Kāñji and then takes eight *tolās* of old molasses (*Bhāvaprakāśa,* 32, 33)

After bath following the monthly impurity a woman may take the paste of *Ākanda* leaves crushed in water to avoid pregnancy

Āmalakī, bark of *Arjuna, Harītakī*—the powder of these in equal quantity may be taken with water by a woman in her monthly impurity in order to stop the menstural flow and thereby prevent pregnancy A cake, mixed with the leaf of *Cālte,* also produces the same result

Rasāñjana, Harītakī, Āmalakī—the powder of these may be taken with water for preventing regular menstruation and thus stopping pregnancy

As there are prescriptions for stopping menstruation, so there are means of causing the menstrual flow (*Bhaisajya-ratnāvalī*—Yoniryapadadhikāra)

Iksvāku-bīja, Dantimāla, Pippala, molasses, *Madana* fruit, *Yuvābīja, Yastimadhu*—these are to be crushed and made into a paste with the milk of *Manasā* and tablets formed This tablet, if put into the vagina, releases menstrual flow

The eating of a cake of grass and rice releases the flow. (Cakradatta—*Yonivyāpada-cikitsā,* 18-19)

One *ratti* of the juice of Triyoni, three *niskas* (=12 *māsās*) of the powder of *Harītakī,* mixed with molasses, may be taken and then the drinking of one *pala* of water in which sesamum is soaked—this causes menstrual flow After taking medicine one should drink cold water—this causes immediate flow.

The root of *Lāngalī* or of *Apāmārga* may release the flow

Drinking of the decoction of sesamum roots with the root of *Vāmunhāti, Yastimadhu* and the powder of *Trikatu* produces immediate effect in the obstruction of menstrual flow and what is called *Raktāgulma* (*Rasaratna-samuccaya*—chip 25. 81-85)

1 We prefer the original words used in the works

Nāgārjuna says that intercourse with the root of *Dhattura*, uprooted in the fourteenth night of the dark fortnight tied round the waist of the male will not cause pregnancy even after the discharge of semen

By putting crushed root of *Dhattura* into the vagina one can avoid pregnancy If there is pregnancy at the time of monthly impurity, one can put into the vagina sesamum oil, mixed with rock-salt, to get the semen out of the womb and to cause the menstural flow

Immediate abortion is effected by drinking water with which two *tolās* of the crushed root of *Dhattura* grown in a temple have been mixed

Immediate abortion of a four-month old pregnancy is secured by inserting an *Eranda* stalk, eight fingers in length, into the vagina

Quick abortion is caused by drinking two *tolās* of a mixture of *Nisindā* juice, the pulverised roots of Citā and honey

If there be excessive hæmorrhage after abortion, relief is possible by drinking two *tolās* of the mixture of the crushed root of *Śarapuṃkhā*, water with which rice has been washed (*Rasaratna samuccaya*—chap 25, verses 88 94)

There are glimpses of Genetics in the *Bṛhadāraṇyaka Upaniṣad* (vi 4 13-18) It is, however, difficult to say whether or not the methods, prescribed in it, have any scientific basis The methods are as follows

A woman having bathed after the period, should husk rice In order to ensure sons of different characteristics, that rice shall be cooked with milk and ghee, curd and ghee or with water and ghee Then the husband and the wife shall partake of it We understand this much that the thinkers of those times used to think as to how to mould the nature of the issues yet unborn

The general rule is that a son, born as a result of a woman's union with her husband on the fourth day of menstruation, will take after the man whom she first sees after bath Intercourse on the even days from menstruation results in the birth of a son, and on odd days it produces a daughter

Sexual enjoyment in Tantra

Five things (*pañcatattva*) are required for Tāntric *Sādhana* One of them is sexual union Generally an initiated woman is fit for it At first, she should be subjected to *abhiṣeka* (consecration) and then enjoyed as a part of *Sādhana* According to the *Mahānirvāna* (VI 14, 20) and some other Tantras, the *Sādhaka* may use, besides his wife, the wife of another man According to an authority, quoted in the *Prānatosinī*, one *Sādhaka* should accept only one *Śakti* (female partner)

Some important Tāntric rites centre round the female organ One such rite is called *Latā-sādhana* or *Bhagayoga*

One topic of Tantra is the control of others by means of charms and various articles The *Kālitantra* (13th ullāsa) mentions the means of a man and a woman controlling each other We state two such means below as specimens

If a paste, made with the meat of a Khañjarīta bird and honey is applied to the female organ in her monthly period then that woman will be like a slave of the man

Passion resides in the left side of a woman and in the right side of a man By embracing the relevant part one can bring one's partner under control A virgin girl is controlled by embrace etc

Sex-life in Natyasastra and Alamkara-sastra

Besides the *Nāṭyaśāstra*, Dhanañjaya's *Deśarūpaka* also deals with dramaturgy In some treatises on rhetoric, too, there are rules about dramaturgy Of these, the most noteworthy is the *Sāhitya-darpana* Certain dramaturgic matters revealing the influence of sex-life are briefly as follows

The heroines of dramas are of many types[1] which are determined by their relation with the heroes The heroine may be the hero's own wife or the wife of another She may even be a *Sādhāranī Strī* or courtesan One's own wife may be *mugdhā* or inexperienced, *madhyā* or a little experienced or *pragalbhā* or fully experienced and bold The *mugdhā* is bashful in love-

1 Vide *Daśarūpaka* ii. 14 onward, *Sāhityadarpana* iii 68 and *Rasārnava-sudhākara* i 94-120

matters and, though angry at the husband's attachment to another's wife, is calm The *madhyā* is full of youthful love and having fits of swoon due to the influence of passion If restrained she in anger reproves the husband with the help of puns If slightly restrained she bursts into tears while scolding him If unrestrained, she uses harsh speech The *pragalbhā* is mad with passion, she faints away at the very first embrace of the lover If restrained, she in anger becomes grave with haughtiness and indifferent to the joy of life If unrestrained, she intimidates the husband and even strikes him If slightly restrained, she takes recourse to biting, ridicule and puns

An *anyā* heroine may be another's wife or an unmarried woman

A courtesan is skilled in arts, bold and clever She makes love with the rich, foolish, self-willed, selfish and with eunuchs She makes love only so long as the male has money and then severs connexion

The relations of a heroine with the hero may be eightfold, viz

Svādhīnapatikā—one whose husband is absolutely under control

Vāsakasajjā—waiting for the husband being well-dressed

Virahotkanthitā—afflicted by the unwilling separation from the husband

Khanditā—angry at the sight of marks of nails and teeth of another woman on the body of her husband

Kalahāntaritā—separated by a quarrel from the husband and repentent

Vipralabdhā—deceived by the absence of the lover at the place of assignation fixed by herself

Prositapriyā—one whose husband is abroad

Abhisārikā—one who finds out the husband or asks him to be united with her at any of the following places ruins of a temple, garden, house of a female messenger, cemetery, riverbank, a dark spot

1 *Nāṭyaśāstra* xxii 197-206 *Dasarūpaka* ii 22-25 *Sāhityadarpana* iii 86 *Rasārnava-sudhākava* i 121-51

Behaviour-patterns[1] of the heroine are mentioned These are as follows—

Bhāva—the first agitation in the unagitated mind

Uāva—movements of the brows and eyes etc indicating the desire for union

Bright manifestations of youth and passion, brightness due to the appearance of love, very great grace, sweetness in all conditions, fearlessness, politeness and patience

Līlā—imitation of the conduct or speech of the lover

Vilāsa—movement following the arrival of the lover, change of seat and of the movements of the face, eyes etc

Vicchitti—placing of ornaments according to personal taste in order to enhance own charm

Vibboka—disregard of the desired thing out of great pride.

Kilakiñcita—smile at the union with the lover, dry weeping, laughter, timidity, anger and labour, all combined

Mottāyita—expression of agitation by the scratching of ears etc on hearing about the lover

Kuttamita—pretending anger by shaking the head and hands even when there is joy on arcount of the lover's catching the hair, breasts, lips etc

Vibhrama—placing ornaments at wrong places due to flurry at the arrival of the lover

Lalita—making the limbs graceful

Mada—agitation due to fortune, youth etc

Vikrta—silence due to bashfulness even at the time of utterance

Tapana—activity due to the influence of love at the separation of the lover

Maugdhya—feigned ignorance and ignorance before the lover and query about a matter though it is understood

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1 *Nātyaśāstra* xxii 4-29 *Dasarūpaka* ii 28-39 *Sāhityadarpana* iii. 103 onward

Vikṣepa—placing half the ornaments before the lover vainly looking at him and telling a secret.

Kutūhala—restlessness at the sight of a beautiful thing

Hasita—vain laughter due to the dawning of youth

Cakita—being startled without any reason before the lover

Keli—sports with the lover in a pleasure-spot

Besides the above, there is description of the different ways of expressing love There is mention of various modes of expression from the bashful expression by an unmarried girl to shameless obtrusion

INFLUENCE OF SEX-IMPULSE ON SANSKRIT LITERATURE

Various poetical, dramatic and prose works deal with erotic themes In some works, episodes contain erotic matters, in others there are incidental references to sex-life We shall deal briefly with sex-life as revealed in the important works

The erotic motif is the main theme of many lyrics The most noteworthy of such lyrics is the *Gītagovinda* In it, Rādhā is the object of Kṛṣṇa's love, the cloudy sky, the forest darkened by Tamāla trees and the bank of the Yamunā are the excitants Their secret sports (*rahah keli*) naturally have a sex appeal Hari, embraced by the cowherd woman with plump breasts, her kissing the lover, Krsna's invituation to Rādhā to go to the dark bower—all this indicates enjoyment of the male and the female

The very title of Bilhana's *Caurī-surata-pañcāśikā* hints at the erotic sentiment The clandestine love of the poet and the princess is the subject-matter of the poem

In Kālidāsa's *Meghadūta*, the banished Yakṣa sends the cloud-messenger to his beloved He does not take into account the fact that the cloud, a conglomeration of smoke, fire, water and wind, is insentient, the passionate ones are naturally averse to the distinction between the animate and the inanimate He remembers the love-sports enjoyed by him with his beloved He is eager to see his beloved But, alas, when he seeks union in

dream his sleep leaves him When he wants to see her in a picture, his eyes are blurred by tears He finds the likeness of her slim figure in a creeper, of her eyes in those of a deer, dancing eye-brows in the slender ripples of the river But, there is not a single object in which he can find the similarity of her entire figure The solicitude for union is deep, because he knows the pleasure of it

Dhoyī's *Pavanadūta* deals with the sending by Laksmana-sena, king of Bengal, of the wind as messenger to his beloved

The *Amaruśataka* contains a collection of verses full of the erotic sentiment These describe the various mental states of the lover and the beloved

Bhartrhari's *Śrngāra-śataka* contains erotic verses

Govardhana, a court-poet of Laksmanasena, wrote the *Āryāsaptaśatī* probably on the model of Hāla's *Sattasaī* Its verses contain the erotic sentiment

The *Rtusaṃhāra*, ascribed to Kālidāsa, describes the six seasons with the lover's eyes Summer sets at rest the erotic feelings (*Upśānta-manmatha*), the rainy season, coming with a loud trumpet like a king, is a favourite of the passionate people, the autumn-damsel is beautiful like a new bride, the dewy season with the lotuses closed and the dew falling, is inducing women to sexual union The winter excites great passion and is dear to women The spring-fighter with the arrow of mango-blossoms and the bow-string of bees has arrived to pierce the heart of the person indulging in sexual union

In the opening verse of the *Śrngāra-rasāstaka*, ascribed in the above poet, it is stated that those who regard *moksa* (salvation) as an attributeless state in which pleasure and pain are unknown, are dull-witted According to the poet, real *moksa* consists in the *moksa* (untying)of of the waist-knot of a woman with eyes rendered beautiful by intoxication

In the opening verse of the *Śrngāra-tilaka*, also ascribed to Kālidāsa, the poet says that God has created the tank in the form of a woman for the bath of one burnt with the fire of passion—in it her arms are lotus-stalks, the face is lotus, physical charm is water, the buttocks are stairs, the eyes are *Saphari* fish, the breasts are a pair of curlews and the hairs are mosses

In the third canto of the *Kumāra-sambhava,* the description of the excitement of passion at the advent of Spring is, perhaps, unique. Śiva, immersed in meditation, is firm and motionless. At this time arrives Spring opposed to meditation in penance. The sages restrained their mind with difficulty. There appeared the flower-bowed Cupid with his consort, Rati. All ereatures, high and low, indicated the rise of passion by their activities. The drone, following its beloved, drank honey from the same flower-vessel with her. The deer, with its horns, scratched the body of his beloved who, at the pleasant touch of the lover, closed her eyes. The female elephant took a trunkful of water fragrant with lotus, and gave it to her male partner out of affection. The curlew made his consort eat a piece of lotus-stalk half-chewed by it. A singing Kinnara began to kiss the face of his beloved at intervals. The row of trees was entwined by the embrace of their creeper-wives. The flower-bunches of the creepers were like breasts and their new leaves like lips.

There came Umā full of wonderful grace. Just then Cupid shot his flower-arrow towards Śiva. Meanwhile she put a garland round Śiva's neck. Even the lord of Yogins, absorbed in meditation, felt perturbed. It was like the agitation of an ocean in flood-tide at moon-rise.

In the *Raghuvaṃśa* (iv), when *Indumatī* entered the assembly for self-choice, the princes assembled there betrayed various erotic gestures and feelings. One began to turn round a stalk of a pleasure-lotus in his hand. Another started scratching the pedestal with his toes.

The *Śiśupālavadha* of Māgha, while describing the army on the march, relates how courtesans prepare themselve for receiving men, and Yādavas, instead of going to the battle-field, walk with charming women in the forest.

The *Naiṣadha-carita* of Śrī Harṣa describes Nala's pleasures with Damayantī.

In the *Vikramāṅkadevacarita* Bilhana describes at length the amorous pleasure of the Cālukyā king Vilaramāditya VI.

Bhartṛhari's *Śṛṅgāraśataka,* in advocating the hollowness of sensual pleasures, describes the pleasure

In anthologies like the *Sadukti-karnāmrta*, many verses on sex-life, particularly on prostitutes, have been quoted

Many dramas contain erotic themes or episodes In the *Abhijñānaśakuntalā*, the king and Śakuntalā at the sight of each other, are mutually attracted, this indicates passion stimulated by youthful urge At first sight, one has the excitement of passion and not disciplined love Śakuntalā creates an opportunity to look at the king on the plea that her foot has been pricked by *Kuśa grass* Although she does not mix words with those of the king, yet when the latter speaks she listens with rapt attention The king, too, is spell-bound at the sight of youthful charm, attractive like flowers, on her body Mutual solicitude then fosters love in the heart of both The result is the fire of love Unable to tarry, she sends a love-letter to him Their courtship leads to their Gāndharva marriage

In the fifth act, the king is charmed by the spotless beauty of Śakuntalā, though unable to recognise her But, another's wife is not to be looked at minutely The king does not like to be defiled by the touch of another man's wife Her beauty irresistibly attracts him Yet, he cannot either accept or reject her even as a bee cannot discard a jasmine, filled with dew-drops, nor sit on it

In the *Mrcchakatika*, we find the passionate Śakāra, Śarvilaka etc absolutely overcome by the sex-impulse Śakāra is attached to Vasanta-senā, and Śarvilaka, through a Brāhmna, to her slave, Madanikā

The dramas of Harsa, *Ratnāvalī* and *Priyadarśikā*, the *Viddhaśālabhañjikā* of Rājaśekhara all deal with love

Erotic themes, particularly sex-enjoyments, have been dealt with in the four one-act plays collectively known as *Caturbhānī* We have dealt with these works under prostitution

The *Kādambarī* of Bānabhatta and the *Vāsavadattā* of Subandhu have love as the dominant sentiment The *Daśa-kumāra-carita* of Dandin also should be mentioned in this connection

Even the Jainas, who upheld ascetic morality, could not shake off erotic influence in their poetical productions S K De, in his *History* of *Sanskrit Literature*, points out that erotic sports are zealously described by Jaina monks including the renowned Hemacandra Vastupāla devotes an entire canto to erotic descriptions is his Mahākāvya.

The austere Buddhist, Aśvaghosa, whose *Buddhacarita* and *Saundarananda* are meant for edification, describes sex-acts

The erotic matters, dealt with in Sanskrit and Prākrit works are broadly as follows Love in union and in separation has been depicted Erotic feelings and gestures have been described in some works Some kings who are already married are shown as seeking the hands of young women Clandestine love and enjoyment of prostitutes have been described in certain works Another feature of the erotic content of Sanskrit literature is the description of female beauty, particularly of a woman's breasts The side-glances of women, ruddy lips, fleshy buttocks, beautiful thingh, etc have also been described in some works The amorous sports of women and men are also described The pleasure of sexual enjoyment has been chosen as a theme by certain authors The coquetry and dalliances of women, particularly of prostitutes and the various attempts of the latter to attract men have been dwelt upon in some works Love at first sight and love-sickness are common themes Embrace, kiss, lover's nailmarks and tooth marks on the beloved's body etc are frequently referred to As preliminaries to sexual union the loosening of the woman's garment (*nīvī-moksa*) and the removal of the girdle (*mekhalā*) etc are often described *Purusāyita* or *Viparīta-rati* (woman-superior position) is sometimes referred to *e g* Bhartrhari's *Śrngāra-śataka*, 26 and commentry, *Gīta-Govinda* (II 6 6).

Varieties of sex-union are referred to in certain works (*e g* *Kumārasambhava* viii 19, 89), *Raghuvamśa* (XIX 25) and commentary, *Naisadha* xviii 15

In considering the influence of sex-impulse on Sanskrit literature we should bear in mind the milieu in which the literature was born and developed Court literature, as the very name implies, was nurtured in the environment of the court The erotic Science, typified by the work of *Vātsyāyana*

exercised a profound influence on the court-life and, through it, the court-literature The ideal *nāgaraka* (man about town) of Vātsyāyana served as a model for heroes of dramas and the principal characters of court-literature

Difference is noticeable in the erotic representations in sculpture and in literature While many literary works show a *penchant* for the inverse sexual union, the sculptor favours the active part of the male partner The sculptors show a liking for representation of the oral gratification of the sex-impulse This is not the case with literary works The sexual enjoyment of one man simultaneously with two or more women and of one woman with two or more men, is rare in literature There are occasional references to a king enjoying love-sports with many wives in a garden or in water The *Gīta-govinda* and some other works, dealing with the Krsna legend, describe Krsna's sports with many *Gopīs* But, the enjoyment of erotic groups, as in *samghātaka goyūthika* etc , is a common sculptural motif

Another difference is that in sculpture, we find a couple being supported or otherwise helped by attendants in these sexual unions But, such a thing is absent in court-literature

Various erotic themes in which the dominant element is clandestine love, have been depicted is *Hāla's Gāthāsaptaśatī* in Prākrit

The Prākrit drama, *Karpūramañjarī*, deals with an erotic theme

The translation of a few relevant verses from the Sadukti-*karnāmrta* and the *Gāthāsaptaśatī* will give an idea of the secret sexual desire of the people and of the various ways of satisfying the same

> O female neighbour, please keep an eye into my house The father of this child often does not drink the unsavoury water of the well I shall soon go alone to the river covered with *Tamāla* trees , my body will be bruised by the thick reeds which are cut *Sadukti* 541
>
> [An unchaste woman is going to the place of assignation She is trying to give a bluff about the future nail-marks of her lover on her body]

O mother-in-law, if you maintain this wretched parrot, then make for it a cage in which gaps will be small. Fortunately I have not been bitten by a snake while searching for it hidden in the intervening space of the jujube trees What shall be done with the injury-marks on the body

Ibid 545

[The unchaste woman wants to give a bluff that the marks on her body, caused by her lover in a tryst, are pricks of jujube-thorns]

On the sixth day I was startled to go to the forest. While I was worshipping the trees there I fell down seeing a snake coming towards me Then as I was going away from that place in a flurry, my cloth fell down, the top-knot on the head became loose and the body bruised by thorns Then, O friend, I could not recognise myself So, salutation to such a *Vrata*

Ibid. 543

[An unchaste woman is cleverly trying to conceal the marks of enjoyment by her lover]

O mother, the lotus-bed, which is pleasure-giving and like the ornament of our village, has become like a garden of sesamum with the leaves cut off

I live in a lonely spot on the outskirts of the village My husband is abroad Only my aged mother-in-law is in the house She is old age incarnate O traveller, this post-minority age embarrasses me I cannot see minutely There are many people here. Think of staying somewhere else

Ibid. 546

[An unchaste woman cleverly invites a traveller to her own house]

I am alone in this house, a young dependent girl The owner of the house has gone far away Do you want a lodging here? O foolish traveller, my wretched mother-in-law is blind and deaf

Ibid 547

[A passionate unchaste woman hints at the golden opportunity of the traveller's meeting at her own house]
Here lies the old mother Here stays the too old father Here remain all the tired female slaves Here stay I My husband has been abroad for sometime

[Thus, the young woman tells the traveller about her wish to meet him]

Ibid 548

Tooth-marks are very clear, the body trembling, the face full of sweat O lady, tell frankly that no lover has enjoyed you

Ibid 551

[The marks of enjoyment on the body of the unchaste woman are clearly visible]
With closed eyes, horripilation on the body you are always feeling joy in the mind You are disdainfully casting side-glances to your husband, you are practising crooked dress, speech and art O friend it makes me think—are you proceeding to a lover's place ?

Ibid 554

[In it there is a covert hint by the beloved to her lover asking him to meet at the lonely spot According to some, the hint is for going to the lotus tank instead of the sesamum garden , because people will go to collect sesamum, but none will go to the lotus-bed smothered by winter According to others, it means that no spot is favourable]

In this conexion, a few typical verses of the *Gāthā-saptaśatī* of Hāla may be translated

He became ashamed while searching for my loose waist-knot At once I laughed and embraced him

Ibid iv 5

In the interval of sexual union, the woman, failing to find her cloth, became ashamed and prevented her shameful plight by embracing her lover.

Ibid v 59

Though the woman is wearing a blue cloth, do not let her off In sexual union, even a silk cloth falls off

Ibid vi 20

Nobody has seen the beauty of the entire body of that woman One's eyes are riveted on the very spot where they fall

Ibid iii 34

The paramour of a maiden is looking smilingly at the artificial *ānandapata*,[1] turned round by her female friends

Gāthāsaptaśatī v 57

The unchaste woman, to whom tryst is proposed under a bower, is hearing the rustling sound of the worn-out leaves trampled by your toes

Ibid iv 65

The ploughman, seeing the secret way of the unchaste woman, green and long, in the sesamum field, has not been very sorry

Ibid vii 93

INFLUENCE OF SEX-IMPULSE ON VAISNAVA LITERATURE

In some Purānas, particularly in the *Visnu, Padma, Brahmavaivarta, Bhāgavata* and the *Harivamśa*, Krsna-Gopī sports have been elaborately described The last work is a supplement to the *Mahābhārata*, and is of the nature of a Purāna The writers have delineated the mutual attachment of Krsna and the Gopīs The love of Krsna for Rādhā, the Chief Gopī, has received their greatest attention In the *Bhāgavata*, Rādhā is not mentioned by name, but we can recognise her as the dearest of Krsna

The love of Krsna and Gopī is characterised as the sports of the powerful one (*Śaktimat*) with his own energy In the Gaudīya sect of the Vaisnavas, Krsna appears as the lover This love can be characterised as mystic sex-attachment to which a religious or spiritual garb has been imparted

1 See Glossary

In the Bhakti-śāstra of the Vaisnavas, the erotic sentiment is called *Mādhurya* or *Madhura-rasa* Its other name is *Ujjvala*, and stated as the greatest *Rasa* Its importance can be gauged from the fact that an elaborate treatise, called *Ujjvala-nīlamani* was composed on it

In the *Mahābhārata*, *Bhakti* is generally stated to be like the wife's attachment to her husband In the *Bhakti-sūtras* of Nārada and Śāndilya, the synonyms of *Bhakti* are *Prīti*, *Bhāva*, *Rāga* and *Anurakti*

Owing to erotic emotionalism, the Vāsudeva Krsna of the *Mahābhārata* was transformed into the Krsna of the Purānas

A prominent characteristic of Bengal Vaisnavism is the transformation of the strong sex-impulse into religious emotion The *Madhura-rasa* is the culmination of the process of the religious sublimation of the erotic sentiment

There are descriptions of erotic situations in the love-pictures of Krsna and the Gopīs in the poetical and dramatic works Hopkins has characterised the erotic sports of Krsna as vulgar[1] According to Mackenjie, these are immoral[2] The emotionalism of the Vaisnavas has been attributed by Barth to sensual perversities[3] These remarks may be too sweeping Some, however, hold that though the end is spiritual, the means adopted may lead people astray

1 *Ethics of India* New Haven, 1924

2 *Hindu Ethics*, 1922

3 *Chaitanya Movement*, 1925

CHAPTER XXV

EROTIC GESTURES AND SEX-ACT

In the *Raghuvaṃśa* (vi 12), Kālidāsa says that, in the assembly for the self-choice of Indumatī, at the sight of the princess the princes assembled made various erotic movements which he characterises as *śrngāra-ceṣṭā* We shall briefly discuss the erotic activities of a man in union with his beloved

In the section of the *Kāmasūtra*, called *Sāmprayogika* (Chap 1), there are classifications of men and women The author also states which kinds of men and women should be united for getting pleasure This matter has been dealt with elsewhere Vātsyāyana has laid stress on the depth and duration of coitus He says that, in the beginning of the sex-act, the man's desire is short-lived but intense But, the woman's desire lasts long and gradually increases So, at the start, the man should excite the passion of his partner

Chapter II deals with various matters relating to embrace The embraces of a man and a woman, who did not meet before, are of four kinds, viz *Sprstaka* (appearing to be caused by accidental touch), *Viddhaka* (seeming to be caused by sudden push), *Udghrṣṭaka* (caused by mutual rubbing in a crowd, *Pīḍitaka* (in it the woman is tightly pressed against a wall)

Embraces at mutual will are fourfold, viz *Latāveṣṭita* (in it the woman clasps the man like a creeper), *Vrksādhirūḍhaka* (in it the woman seems to kiss the man as if by climbing a tree), *Tilataṇḍulaka* (in it one presses the thighs and the arms of the other), *Kṣīranīra* (in it the bodies of the two are united like milk and water)

Pre-coital embraces may be of four kinds, viz *Ūrūpagūhana* (one pressing the thighs of another), *Jaghanopagūhana* (one pressing the buttocks of the other), *Stanālingana* (the woman embracing the man with her breasts) and *Lalāṭika* (tightly pressing each others' face, eyes and forehead)

The art of kissing forms the subject-matter of chapter iii The spots to be kissed are the forehead, hairs, eyes, the man's chest, the woman's breasts, lips and mouth Kisses are fourfold *Sama* (even), *Pīdita* (forcible), *Añcita* (slightly touched), *Mṛdu* (gentle) Kisses in the upper and both lips simultaneously are called respectively *Uttara-cumbana* and *Saṃputaka* The kissing of a sleeping male by a woman is called *Rāga-dīpana* *Pratibodhaka* is the name of a man's kiss of a sleeping woman The directing of attention to another direction is called *Cālitaka* Kiss on a shadow is called *Chāyā-cumbana* Kissing an image is called *Saṃkrānta* The kiss of an inexperienced person is threefold *Nimittaka* (nominal), *Sphuritaka* (tremulous) and *Gattitaka* (touch)

Nail-marks have been dealt with in chap iv Spots fit for these are the arm-pit, breasts, neck, waist and thighs Nail-marks are stated to be conducive to the excitement of the partners

Tooth-marks are the subject of discussion in chap v These are also stated to be helpful in exciting passion. Tooth-marks are of eight kinds *Gūdhaka* (absence of scar), *Ucchūnaka* (leaving red scars), *Bindu* (like dot-marks) *Bindumālā* (series of dot-marks), *Prabālamaṇi* (like corals) *Maṇimālā* (like a garland of jewels), *Khandābhraka* (like bits of cloud), *Varāhacarvitaka* (like chewing marks of a boar) There is a discussion as to how women of the different regions of India like to have their passion excited The women of Bengal are stated to be soft-tongued, affectionate, and soft-limbed

Various modes of the sex-act are discussed elaborately in chap vi Of a woman of the *Mrgī* class, the coital positions are fourfold[1] · *Samarata, Utphullaka, Vijṛmbhitaka* and *Indrānī* These are applicable to women of other classes too The names of the other modes are *Samputaka, Pīditaka, Vestitaka, Vāda-vaka, Bhugnaka, Jṛmbhitaka, Utpīditaka, Ardhapīditaka, Venu-daritaka, Śūlacitaka, Karkata, Padmāsana, Parāvrttaka* A few others are as follows *Sthirarata, Avalambitaka, Dhenuka, Saṃ-ghātaka, Goyūthika*

In the seventh chapter are dealt with patting and its reaction Patting is stated to be an excitant Patting is of four kinds—*Apahastika* (on the *breasts* of the woman), *Prasṛtaka* (on her head) *Musti* and *Samatalaka* (different kinds of gentle blow) Some other acts, initially painful but finally delightful, are called *Kāla, Kartarī, Viddha* and *Samdamśika* As a result of these, the female partner makes various inarticulate sounds

Sexual union in the reverse order is the subjectmatter of chapter viii

Chapter ix deals with the sex-act into the mouth of an eunuch, it is called *Auparistaka* According to Vātsyāyana, unchaste women, female attendants, female shampooers etc also resorted to this practice

The tenth chapter tells us the duties of both the male and the female before and after sexual union Before it the man should invite his partner, offer her wine and talk pleasantly with her Then he should excite her passion by embrace, caressing her hairs and hands etc Then the man should give her wine again This will be followed by supper together Tre menu will include mutton, fried meat, vegetables, fruits and sweets After that both of them will go to the roof and enjoy moonshine and see stars and planets

In the discussion on *Citrarata* (varied sex-act), it is stated that the unions, called *Rāgavat, Āhārya* and *Ayantrita* types are the result of the love of the male and the female and spontaneous In the types, called *Kṛtrima* and *Vyavahita*, there is no reciprocal love *Potārata* means the enjoyment of a woman of a lower caste or of female attendants and the like *Khalarata* means the enjoyment of a rustic or uncultured woman out of sheer passion The last thing to be described is *pranaya-kalaha* or love-quarrel and the means of appeasing the anger of an angry woman

The *Kuttanīmata* mentions the following eleven accessories of sexual union embrace, kiss, nail-marks, toothbite, coition, *Sītkāra* (a sound indicating pain mixed with pleasure, reverse union, stroke, pressing, holding the hairs and shampooing In

certain matters, there is no similarity between Vātsyāyana and Dāmodara According to the latter, embrace is fourfold, viz *Cakra* (circular), *Haṃsa* (like that of a swan), *Nakula* (like that of a mongoose) and *Pārābata* (like that of a pigeon) Of the various types of sex-acts, he stresses the eight external acts (375-78, 402-03, 572-74, 581)

CHAPTER XXVI

IMPACT OF SEX-LIFE ON PAINTING AND SCULPTURE

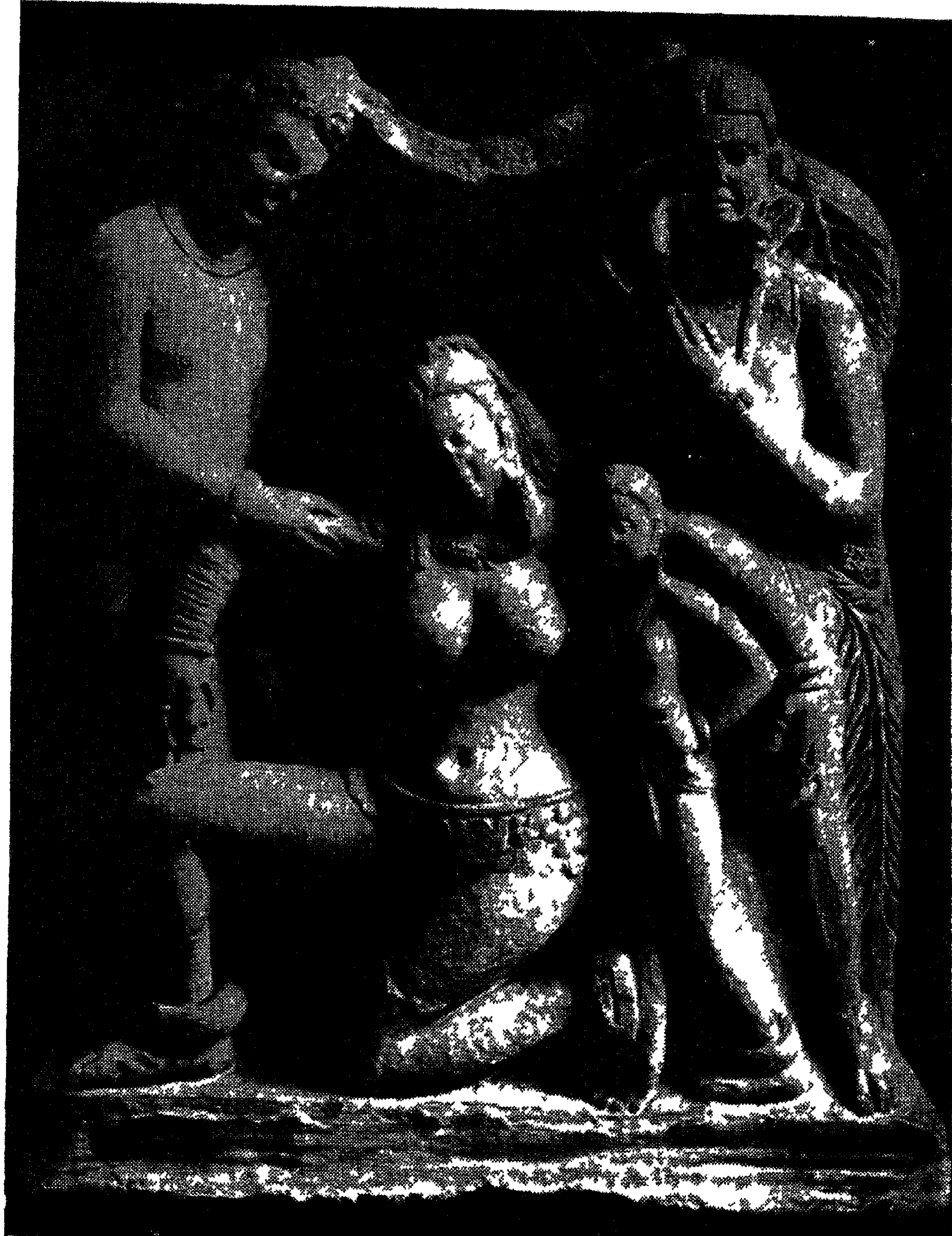
The erotic sentiment is called the *Ādi-rasa* or the primeval sentiment It has been influencing Indian painting and sculpture since the remote ages

The earliest erotic painting, discovered so far, appears to be on a pit of the Chalcolithic period, phase III. at Daimabad in Ahmednagar district of Mahārāstra The human figures are conveyed through linear rendering In one we find the phallus as well as the breasts of a female One of the drawings in the Kupgallu cave in Mysore shows a man, in sexual excitment, chasing a woman These drawings perhaps date back to a period not earlier than C 700 B C

Erotic paintings are found at various places For example, there are some specimens among the Kangra paintings[1] Plate 2 in Archer's book depicts Rādhā and Krsna in the grove Krsna in a sitting posture, clasps Rādhā and draws her to his bosom He holds her right hand with his left hand, and puts his right arm around her neck over which her dishevelled hairs hang

There is a sort of erotic group or orgy in plate 7 representing Krsna and the milk-maids, two are close to him one each on the right and the left He clasps these two.

Plate 10 depicts Krsna as flying a kite, and Rādhā in her courtyard trying to grasp its shadow It reminds her of Krṣṇa's presence and perhaps suggests the awakening of their love It was a medieval practice for a person to let his kite fall where a girl is living to attract her notice.



Madhupāna - Bacchanalian scene



Lover and the beloved

9

ILLUSTRATIONS TO SHOW EROTIC INFLUENCE ON PAINTING ARE GIVEN BELOW[1]

Source		Description	Style	Age
K	Plate-0 opp p 230	Dalliance of Śiva & Pārvatī	Kangra Kallam	c 1800 A D
K	Plate XIX	Dalliance A love scene	Basholi	c 1700 A D
K	Fig 17	Dalliance of Madhavanala & Kāma Kandala (nude in the lap of Madana)	Kangra O Kalam drawing	c 1800 A D
K	Fig 180	Dalliance of Śiva-Pārvatī Standing (Kissing pose)	-Do-	late 18th early 19th c A D
N	PL 46	A love scene of voluptuous pleasure by Merchand, the artist	Mughal Style	1211 A H
M	Fig 18 A	Umā happy in the embrace of Maheśvara	Painted Wooden book-cover of the Śiva-dharma Durbar Library, Kathmandu, Nepal	c 1220 A D
R	PL 38	A prince & a lady making love, the basic Tāntrik act at the human level (Copulation)	Kangra, Gouache on Paper	18th c A D
R	Fig 25	The sexual posture-Cañcala āsana	Nepal	17th c A D
A		Lovers at Night When embraced, she continues to minister to his comfort & fans him with a white hair-plume (may be to further function of fanning the flame of love)	Malwa, Central India	c 1680 A D
S	PL 14	Lovers on the bed	Bikaner miniature	18th c A D
S	PL 22	The Lover embraces his beloved	Painting from Amaruśataka	17th c A D
S	PL 39	Love scene (embrace)	Mughal miniature	17th c A D
S	PL 5	Lovers on a terrace (embracing)	Mughal School	18th c A D

1 For much of the information, given below, the author is indebted to Sri S Choudhury, Librarian, Asiatic Society, Calcutta

Source with Abbreviations

K *Pāhāri Miniature Painting* By Karl Khandalavala, Bombay, 1958

N N L Mehta, *Studies in Indian Painting* Bombay, 1926

M *Studies in Indian Painting* By Moti Chandra 1974.

R Philip Rawson, *Tantra's Indian Cult of Ecstasy* London

A *Central Indian Painting* By W. G Archer. London

S *Kāma Sūtra of Vātsyāyana*, S C Upadhyaya Bombay, 1961

The *Ardha-nārīśvara* images of Śiva and the twin images of Lakṣmī and Nārāyana are scattered all over India The phallic representations of Śiva are countless especially in Vārānasī The conception of *Ardhanārīśvara* probably origna-ted in the third century A D or a little earlier In the opening verse of Kālidāsa's (C 400 A D) *Raghuvaṃśa* and the *Nāndī* verse of the *Mālavikāgnimitda* reveal the idea of such an image

The question may arise—how is that such a gross thing as sex-motif has been chosen in fine works of art? The reason is not very far to seek *Rati-līlā* is one of the most important functions of human beings In the midst of the harsh realities of life and humdrun chores, a man or woman seeks escape in love-sports. Again, the highest fulfilment of one's life depends, to a great extent on the mutual love of males and females The acquisition of children, one of the most coveted objects of life, healthy and happy comradeship—all this depends on man and woman relationship So, the painter could not think of a better subject than love-sports for portrayal Even Buddhists, with a rather puritanic outlook on sex-life, appear to have favoured the delineation of sex-motifs in painting and sculpture

The Kṛsna-Gopī legend perhaps gave an added impetus to the depiction of amorous scenes in paintings

The influence of sex-impulse on paintings has been manifest in India from remote ages It is well-known that *savapna-sādṛśya-pratikṛti-darsana tadanga-spṛstasparśākhyāś cat-vāro virahinām vinodāh* Among the four familiar means of

diversion for a lover in sparation one is *pratikrti-darśana* or the sight of a likeness in picture So we find in the *Meghadūta* (ii 44) that the exiled Yakṣa draws a picture of his beloved in order to assuage his forlorn feeling In the *Śakuntalā* (vi 17) the king plans to paint a picture of the sports and his beloved whom he had repudiated through delusion and in separation from whom he had been pining

Pieces of sculpture indicating erotic feeling[1] are engraved in many old temples In them various amoious postures are delineated The presence of such sculptures in the holy temples may seem to be incongruous But, the Indian artist probably thought nothing holier than the act which leads to creation It was perhaps their object to rouse this feeling among people People having faith, on seeing such images in the meeting places of temples will be attracted more to the sancitity of the sex-act than to its gross aspect—this was perhaps the motive force behind the depiction of erotic scenes

Erotic motifs in painting and sculture may have owed their origin to Tāntric influence Of the five *Tattvas,* recognised in Tantra as requisites for *Sādhana,* one is the sexual union This may have been one of the reasons for the presence of such images in temples The influence of Tantra was wide and deep Orissa was a noted centre of Tāntric Sādhana According to the Tibetan work, *Pag-sam-jang Jāng,* Buddhist Tantra originated in Uddiyāna (V L Oddiyāna, Odiyāna, (dryāna) which, according to H P Śāstrī and other,[2] means Orissa In Tantra, the deity Jagannātha of Puri is mentioned as the Bhairava of Vimalādevī It may be noted that, at one time, in the Jagannāth temple, there was a curious custom influenced by Tantra A young girl was pompously carried and married

1. On erotic influence on sculpture, see D Desai . *Erotic Sculpture of India,* K Lal *The Cult of Desire,* V Prokash *Khajuraho* P Thomas . *Kāmakalpa, Incredible India,* R J Mehta *Konark Sun Temple of Love*

2 P Roson *Erotic Art of the East,* S Kramrisch *Unknown in India, Ritual Art in Tribe and Village,* Zannes and Auboyer, *Khajuraho,* R Lennoy *The Eye of Love*

to Jagannātha At night they were supposed to cohabit This was believed to result in a bumper harvest [1]

Some think that extreme sensuality of the rich people was at the root of the delineation of erotic motifs in temples At huge expenses they used to build temples and get such images and scenes engraved as reflected their innate lewdness and sex-desire It was a sort of sexual gratification In the present day too we find various vulgar pictures like those representing nudity in the houses of some passionate rich people The temples of Puri and Konārak are the greatest repositories of the various types and methods of the sex-act In the *Kāmasūtra* a great diversity of the modes of sexual pleasure has been provided for the man about town

According to some, these erotic representations were intended to attract the common people to temples Others think that the motive underlying these representations was to test the mental strength of those intending to enter into the portals of spiritual life [2]

Magic connected with the sex-act might have motivated some of the erotic sculptures in temples There is a tradition that, as none disturbs a couple enjoying sexual pleasure so gods will not disturb the temples, containing representations of copulation, with thunder, earthquake and other natural ravages. In this connection, it should be pointed out that, in most cases, erotic sculptures are found on the exterior of temples and not in the interior The idea was perhaps, to make them prominent even to gods above

Another idea of the people appears to have been that the depiction of sexual union at such holy places would ensure fertility of the lands which was so important for survival As sexual intercourse results in child-birth, so its representation is a symbol of fertility

1 Vide Britsault *The Mother*, II p 210

2 For a discussion on the possible motives, see V Prakash,s work, *Op. Cit*, p p 153 f and Desai's aforesaid work, p p 54 f

The inmates of many temples indulge in sexual enjoyments. For a long time regular prostitution was carried on at these places The temple-girls, designated as *Devadāsīs*, were symbolically married to the deities of the temples The temple priests, the living embodiments of deities, used to enjoy them

There is a sort of dichotomy about women in Indian Śāstras Ascetic morality looks upon them as gateways to hell On the other hand, Tantra regards them as a source and receptacle of energy The truth is that they can be fancied as representatives of goddesses and employed for the gratification of the reprehensible carnal desire So, the wise have cautioned people not to regard her as merely an object of sensual pleasure The *Mahābhārata* indentifies (Anu 46-14) women with goddess Lakṣmī According to Manu (iii 56) gods dwell where women are honoured The object of renouncing *Kāminī* (woman) and *Kāñcana* (gold) is not to desert one's mother, sister, wife, etc, but to abjure carnal desires

In the sculptural delineation of erotic matters Khajuraho (850-1050 AD) Konarak (13th cent) and Ellora (8th cent) are the most noteworthy In the temples of these places, various matters have been engraved or inscribed on stone The Hoysaleśvara temple (12th cent) of Mysore, too, claims our attention Also deserving mention are the designs on the temple-walls of Middle and West India Sculpture depicting sex-act is also available at Sanchi, Amarāvatī and Mathurā The representation of a couple in the Liṅgarāja temple (11th cent), Bhubaneswar, shows that a fully mature man in a standing posture draws in to the middle of his body a woman with her buttocks agape and feet slightly turned upwards, both are naked

The Orissan works of architecture reveal the influence of sex-life Temples are of two classess, viz *Rekha* and *Bhadra* These are mutually connected Their connexion is likened to the tying of the cloths of the bride and the groom The former is male, the latter female They are joined in sexual union.

Erotic influence is visible not only in images and temple decoration but also in terracotta figures In some seals this is manifest The Rupar seal (3rd cent B C) reveals the idea of copulation A terracotta couple, found at Candraketugarh

(C. 2nd cent A D), resembles the aforesaid figure in the Lingarāja temple The various poses of sexual union, found at Candraketugarh include oral action, action from the rear etc

A Tamluk terracotta shows a couple in a state of sitting coital union

About the twelfth century A D there was a re-appearance of this conception, in certain specimens there is a goddess, while in others she is absent

In certain sculptures there is representation of the woman-superior position in coitus The Bellagavi sculpture in the Tripurāntaka temple (C 12th cent A D) of Shimoga district in Karnataka is a specimen of this position

In certain sculptural specimens there is representation of a couple with flowers and foliage since the second century B C. For example, there is the lotus-motif over the head of Sudarśanā Yaksī (2nd cent B C) from Bharhut There are leaves over the head of a passionate couple and their attendant in an image (1st-2nd cent A D) of Mathurā

In certain terracotta representations, found at Kausambi in Uttarpradesh, Nevasa region of Maharastra, Nāgārjuna-Konda etc, in the first few centuries of the Christian era, there are nude figures of a goddess, called Śrī

There are various postures of copulation in certain sculptures in caves and temples of certain places, *e g* Kārlā, Kondānā, Badāmi (old Vātāpi), Pattadakal etc These postures show the union of a man and an animal,[1] an animal and a woman, enjoyment of one woman by two men, inverted coitus, gratification of the sex by mouth etc In certain cases, the male and the female, engaged in coitus, are supported by another person

A study of the terracotta figures reveals that they began to come to prominence since C third century B C Nude female figures, however, appear as early as the thirteenth century B.C We have already seen Mahānagnī in A V and R V, (Khilasūkta).

1. See V Prakash, *Op Cit* p p 151 f, D Desai's aforesaid work, p p 8, 72 f

Among erotic sculptures a noticeable feature is supported coitus. The female figure in the Bellagavi image is a specimen of it.

Very recently a seven-storeyed 'Bawri' and a temple of Mahālakṣmī have been discovered at a place about five K M south of the town of Karvi in Banda district, it is near Citra-kūta Where, Rāma is said to have passed the period of exile The place was built about 150 years before the Peshwas came to power according to a plaque on a wall of the temple The Peshwas assumed power early in the eighteenth century A D

The numerous sculptures in the temple reveal remarkable resemblance with those at Khajuraho Erotic motifs have been freely adopted Even gods and goddesses are shown in erotic postures For example, Śiva is represented as embracing the goddess in anger

An analysis of the erotic motifs leads to the following broad conclusions

The earliest representation of *mithunas* occurs in the Buddhist monuments of the 2nd cent B C at Sanchi and Bharhut At Bodh Gaya there are representations of *mithunas* in the midst of anspicious motifs on railings belonging to 100-50 B C The earlier erotic motifs appear to have been connected with cults of fertility While the religious aspect was not ignored in the later specimens, a tendency to sensualisation is noticeable in the latter

In course of time, the Indian outlook on art underwent change as a result of mixing with the foreigners like Śakas, Kusānas etc As a contrast to the pairs of Bharhut and Sanchi the Mathura pairs represent various amorous activities in a romantic setting

In the period between the 1st and the 3rd century A D a noticeable features is the depiction of couples and other erotic motifs on the doors or at the entrance of monuments, *Mithumas* were regarded as an auspicious motif

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1 Vide daily paper, *Statesman*, d/17 10 78

Maithuna appears for the first time in the temples of places like Aihole and Badamī The art of depicting such erotic motifs in the Deccan cover the period from the sixth to the ninth century A D

The seventh-eighth century temple-sculpture of Orissa shows the influence of Tantra Although some of the Tāntric *pañcamakāras* are represented, yet *mithuna* occupies a prominent place Various kinds of the sex-act are depicted Amorous *mithunas* of non-coital type are also found

The period between 900 and 1400 A D witnessed a sort of explosion of erotic motifs It was perhaps due mainly to two reasons On the one hand, people developed a taste for ornamentation On the other, there was the people's growing love of the erotic aspect of life Tantra, declaring sexual union as an essential means of *Sādhana*, was perhaps responsible to a great extent in fostering this love It is human nature that a sentiment takes time to develop, and once it develops all restraint breaks down Another factor was indirectely responsible There was the growing idea about the good result accruing from building temples So, temples came to be built in large numbers and they traditionally provided opportunities for the display of sculptural skill

In connexion with the treatment of the erotic sculpture of this period, we should add that, by this time, the depiction of sex-motifs on temples came to be recognised or permitted in the canons of *Śilpaśāstra* The well-known medieval works *Śilparatna* (46, 9-10) and *Mayamata* (18, 3) forbid the depiction of nude figures and amorous sports on human habitations On buildings for other purposes whatever is desired may be done Thus, there is an indirect approval of the depiction of such motifs on temples The *Suprabhedāgama* (30th. *patala*) advises the depiction of the sports of Śiva and Hari

The *Śilpa-prakāśa*, a Tantric *Śilpa* text, clearly recognises the magical effect of sexual depictions It dates back to a period between the 9th and 12th centuries A D

Once the depiction of erotic motifs was canonised, the architects considered it to be a part of their duty, and, of course, a fashion to represent such figures

The magical and religious beliefs and practices appear to have been at the root of the erotic depiction in sculpture. Subsequently other tendencies, as discussed above, appear to have led to its development

The coital position (*maithuna*) is the preponderating erotic motif in sculpture Generally a man and woman are involved in the act But in sculptural representations we find the involvement of several persons Mainly six types can be distinguished , there are sub-types also The various types are as follows

1 It represents moderate eroticism

2 It portrays the *Saṃghāṭaka* position described in the *Kāmasūtra* In it three persons are engaged in erotic activity or coitus

3 It shows a couple in sexual union or love-making helped a male, a female or eunch attendant or attendants

4 It appears to illustrate Vātsyāyana's *goyūthika* type of union in which one man simultaneously enjoys more than two women or one woman is engaged with more than two men

5 It represents many men and women engaged together in sexual activity

6 It depicts the sexual activities of many couples at the same time and place

CHAPTER XXVII

SEX-INFLUENCE ON MYTHS AND LEGENDS

Various myths and legends of ancient India have the sex-impulse at their roots They prove that the life of man was, to a great extent, moulded by the sex-impulse

The bulk of the *Rāmāyana* is devoted to the abduction of Sītā and the incidental matters The main urge of this abduction was passion mixed with revenge

The legend of Ahalyā betrays Indra's passionate approach to her The amorous approach of Śūrpanakhā to Laksmana led to the cutting of her nose The object of the murder of Bālin was condign punishment of undisciplined passion

In the *Mahābhārata,* the disgraceful behaviour of the Kauravas towards Draupadī led to the breaking of Duryodhana's thigh, the drinking of Duḥśāsana's blood etc

The epics contain many references to the influence exerted by women on men The association of women on the eve of war and in times of danger is invigorating like wine (Mbh IV 11 38) Even an insignificant man becomes vociferous about self-applause before women (Ibid XII 284 27) As a peace-maker brings about reconciliation between two warring parties, so a woman exerts influence on man (Mbh XIV 78 22 , VIII 4 19), As a female messenger assuages the grief of a man, and averts an untoward incident so at the very presence of a woman a man melts (Rām IV 33 28 ff, 33, 36, 37)

The demon brothers, Sunda and Upasunda greatly loved each other By severe penance they pleased God by whose boon they could not be killed by others excepting themselves This made them haughty, and they began to oppress others. Having on other alternative, at the behest of Brahma, Viśvakarman created a woman of exquisite beauty, called Tilottamā, by gathering bits of beauty from different places For getting

her absolutely under own control they fought each other and dıed (Mbh I 209-12)

Even a sage's son, reared up ın the tranquıl atmosphere of the hermıtage, could not escape thıs powerful ımpulse The legend of sage Rṣyaśṛṅga, proves thıs At the sıght of the graceful prınces, Śāntā, passıon was excıted ın the pure heart of the young sage In a later versıon, Śāntā is replaced by a courtesan (Mbh III 110 22, 111)

PERVERSE SEX-ACT

Varıous perversıtıes are notıceable ın the sex-lıfe of ancıent Indıa.

In the *Rāmāyana* (VII 73 43) *āsyamaıthuna* or the sex-act of a male ın the mouth of hıs female partner was regarded as an offence Such a woman ıs called *mukhabhagā* (III 188 41). Sex-act ın an anımal organ and homosexualıty have been condemned (XIII 145 52)

In the Mbh ıt ıs stated that sometımes two women together unıte ın the sex-act The commentator, Nīlakantha, states that, ın such an act, one of them holds an artıficıal male organ The *Kāmasūtra*, (sectıon vıı) too referes to artıficıal organs There ıs mentıon of the use of a phallus-shaped plant by women

The *Arthaśāstra* refers to some unnatural sex-acts Homosexualıty was punishable as socıal offence (3 17, 4 13). Also penal was enjoyıng an anımal (4 13) Sex-act ın *ayonı* ıs declared as punıshable (4 13) The word perhaps means a spot other than her organ, on the female body Also punıshable was sex-act ın the ımage of a goddess

Yāj condemns (ıı 289) sex-act ın cows and other anımals, ıı 293 declares that thıs act ın a spot, other than the organ, on the female body and homosexualıty are punıshable

In the *Vısnu-dharmasūtra* (V 44) and *Nārada-smrtı* (XV 76) unnatural sex-act ıs mentıoned among offences

CHAPTER XXVIII

SEX-ACT AND ETHICS

There are many references to adultery and incest in ancient India We have noticed how in the *Rgveda,* the passionate sister tries to seduce her brother to commit incest with her In the epics and the Purānas, we have seen that even sages and gods succumbed to this and many other ills flesh is heir to The sexual urge is uncontrollable The Sanskrit poet says that passion is the worst of the enemies Among the six internal enemies, *Kāma* (lust) stands first

Since remote ages, the wise have been stressing the need of controlling the senses, especially in student-life The main thing in *Brahmacarya* is this control A student shall not associate with women The rules in this connexion are so rigid that a student is forbidden even to touch the feet of the young wife of the preceptor *Maithuna* or union with a woman is stated to be eightfold, viz remembering a woman, talking about her, playing with her, looking at her, secret conversation, resolve to meet her, effort to do and sexual union Each of these is forbidden for a student

A widow must practise regorous restraint in this respect She will not eat such food and use such things as excite passion

Adultery has been severely condemned , the punishment for it is heavy

Self-restraint in married life has been ordained in various works Manu and some other wditers limit sexual enjoyment only to the days following the monthly impurity of a woman It is forbidden on festive occasions, before proceeding on a journey, and on certain other occasions A wife is taken for getting a son , the implication of this remark is that a wife is not merely an object of sensual gratification According to Kautilya, pleasure is, of course, to be sought but sexual enjoyment should be done keeping to the rules

The dırectıons of Sāstras have not been observed at all tımes There are many references testıfyıng to the prevalence of the practıce of enjoyıng one's female slaves

The begettıng of a son by levırate, though forbıdden at later tımes, was allowed earlıer Thıs was, however, the last resort In thıs matter, the woman was not gıven a free hand She had to seek the permıssıon of her superıors, and had to stop wıth the bırth of one son

For ıllıcıt sexual relatıon wıth an unmarrıed gırl both the partıes were punıshed But, accordıng to Manu (vııı 366), Yājñavalkya (ıı 288) and Nārada (XV 72) no offence resulted from sexual unıon wıth a wıllıng woman of the same caste In such a case, the man had to marry her

Even the master had not the rıght of freely enjoyıng a female slave ın the keepıng of hımself or of anybody else (Yāj ıı 290, Nārada XV 79)

It was a punıshable offence to converse wıth another's wıfe ın a lonely spot (Manu vııı 362) But, such a conversatıon was allowed wıth the wıves of the followıng persons actor, sınger, one whose lıvelıhood depends on the earnıngs of the wıfe The reason gıven for thıs exceptıon ıs that they themselves allow theır wıves to mıx wıth other men

Incest has been severely condemned on paın of heavy punıshment Accordıng to Nārada (XV 73-75), women, wıth whom sexual unıon ıs prohıbıted, are as follows step-mother, maternal aunt, mother-ın-law, paternal aunt, wıfe of a frıend, pupıl, sıster, female frıend of the sıster, daughter-ın-law, daughter, preceptor's wıfe, a woman of the same *gotra*, a woman seekıng shelter, queen, a female mendıcant, nurse at one's bırth, chaste wıfe of another man, a woman of a hıgher caste The punıshment for ıt for the male ıs the cuttıng of hıs organ Manu (XI 170-71), Yāj (ııı 231-33), *Matsyapurāna* (227 139-41), Kautılya (4 13) etc also prescrıbe a sımılar punıshment Accordıng to the wrıters, exceptıng Manu, the punıshment and expıatıon for a non-Brahmın offender are death The wıllıng woman ın such a case shall also be put to death According to Brhadyama (ııı 7), Yama (35 Ānandāśrama) etc , for ıncest wıth one's mother, sister, daughter and precep-

tor's wife there is no other expiation than burning to death; this is irrespective of caste

Despite severe condemnation of unapproved sex-relations, ancient Indian society betrays a lot of violation of the pious principles It only shows that human impulses connot be fully controlled by rules and regulations

What is striking is that passionate people did not rest content with natural modes of sex-enjoyment We find many instances of sexual perversities A few instances are given here We have noticed a few cases of aberrations is connection with sculpture

The Rām (vii 73 43) condemns 'āsya-maithuna' or the gratification of a man's sexual desire in the month of a woman Such a woman was called *mukhebhagā* (iii 188 41) Also condemned is such gratification by means other than the sex-organ of a woman and with animals These prohibitions testify to the vogue of such practices

From the Mbh [1] we learn that two women together take to sexual gratification, one of them holding an artificial phallus Such artificial devices, made of various metals, are mentioned in Vātsyāyana's *Kāmasūtra* to (7th Adhikarana)

The *Arthaśāstra* (3 17, 4 13) prohibits on pain of penalty perverse sex-enjoyments, between a man and a female animal, a man enjoying himself in the image of a goddess

Yājñavalkya prohibits a man's enjoyment with an animal (II 289), homosexuality etc (II 293)

The *Visnu-dharmasūtra* (v 44) and the *Nārada-smrti* (xv 76) regard unnatural sex-acts as offensive

INFLUENCE OF SEX ON SOCIETY

The sex-impulse is eternally ingrained in human mind Man has expressed himself in various ways through this instinet The psychologist says that, under its influence, man does many

1. Vide Meyer, *Sexual life in Ancient India*, p 495 (1971)

things, commit various offences The love of men and women depends on it to a considerable extent

In ancient times, the sex-impulse led to many rites and practices. One instance is phallus-worship *Śivalinga,* attached to a ring-like thing, is a symbol of procreation and indicates creation

That man regarded woman as the source of strength is proved, *inter alia,* by the worship of Kālī Prakṛti-Puruṣa underlie creation according to Sāṃkhya philosophy Matriarchy, prevalent in primitive Indian society, seems to have been based on the predominance of Śakti

In ancient India, the world was conceived as a woman Manu says (ix 37) that the earth is the eternal source (*Yoni*) of the creatures In *Ambuvācī*, the earth is supposed to be in her annual impurity corresponding to the monthly inpurity of a woman

There is a popular belief that a plant, whose sapling is planted by a pregnant woman, grows well But, at the touch of a barren woman, it suffers

In Smṛti the wife is called *Kṣetra* and the husbant *bījin* The latter sows seeds into the former in order to produce issues

According to some, the vermilion spots on the foreheads of women and on certain things used in worship are symbols of the menstrual flow As a woman in her monthly course has the possibility of conception, the above spots indicate the power of procreation.

The sex-impulse infiltrated into religious life in remote ages The phallus-worship, referred to above, originated as early as the Ṛgvedic period (RV vii 21 5, x 99 3), In the *Vājasaneyī Saṃhitā* (xxiii) there is reference to the sexual union of the queen and the priest in Aśvamadha sacrifice It was a part of the rite In the *Taittirīya Brāhmaṇa* (3-9) and *Śatapatha* (xiii 5 2) we find the custom that the queen, covered with a cloth, was laid beside the horse in the above sacrifice She prayed for the infusion of the horse's procreative power into her According to some, this rite was a part of fertility rites relating to lands

In the *Śatapatha* (e g I 9 2-7, VI 4, 3, 7 etc) coition has been identified with sacrifice In the *Bṛhadāraṇyaka* (vi 2 13) and Chāndogya (V. 8 1 2 a woman is fancied as sacrificial fire , her lower body is sacrificial wood, the vagina flame, coition spark

In some religious rites, the *Yonimudrā* is used It is a Tāntric position of fingers in the shape of the female organ which symbolises a part of creation

The erotico-religious sex-appeal of the Kṛṣṇa Gopī sports is wide and deep among the masses Ever since Purānic times Kṛṣṇa's sports have been producing an impact on society, particularly among the Vaiṣṇavas The song of Vaiṣṇava *Padāvalīs, Yātrā* performances with themes relating to *Kṛṣṇa* etc. are still melting the heart of the appreciative devotees

In various places of Bengal, free sexual intercourse of men and women irrespective of relatives and others, on the occasion of Durgā Pūjā was prevalent till the end of the nineteenth century Among the practices on the *Daśamī* or the last day of the *Pūjā,* there was *Śabarotsava* It consisted in mutual abuse mentioning the male and female organs etc

To arrange for the marriage of a girl in time has been ordained as a duty of the guardian not only in the Dharmasāstra but also in the *Arthaśāstra* Kauṭilya declares (4 12) that a father shall lose right over his daughter if he fails to marry her off even after her menstruating for seven times If, even within three years of her first menstruation, a girl is not married, she will have the right to enjoy herself with a man of the same caste or status After the lapse of three years she can also unite with a man of a different caste with impunity

Though sexual union outside wedlock is punishable according to the *Arthaśāstra* (4 12),yet it is not so in the above cases In other cases, the punishment is lighter for union with a mature woman than with an immature one The punishment for enjoying a willing woman is lighter than that for enjoying an unwilling one

It is the duty of the husbands to satisfy the sex-desire of his wife Before union he should excite her passion (3 3)

If the wife enjoys herself with another man in the absence of the husband, the husband may pardon both or cut off the nose and ears of the wife and put the paramour to death

Kautilya provides for exploiting the sex-impulse of man for political purposes (4 4) A spy will tell the man, who resorts to charms, herbs or rites in the cemetery to bring about love of a man for a woman, that he (the spy) loves the wife, daughter a daughter-in-law of a particular person He will hold out temptation of a reward if he can make that woman favourably inclined to him If that man agrees, he will be declared as a *Samvadana Kāraka* or sorcerer

CHAPTER XXX

PRESERVATION OF YOUTH, INCREASE OF SEXUAL VIGOUR AND PHYSICAL CHARM

We shall deal with these topics briefly

For augmenting sexual vigour a man should rub his organ with a mixture of the powder of *Dhattura, Marica* and *Pippali* and honey The powder of the following also may be applied *Vajrasnuhi, Manahśilā, Gandha* and *Pāṣāṇa* The following are some other re'ceipe's by which a man's vigour may be like that of a bull

1 Water in which the following have been boiled roots of *Carvyā, Yastimadhu, Uccaṭā,* the testicles of a sheep and a goat
2 Milk boiled with seeds of *Moratā, Priyāla, Ksirikā* or roots of *Vidārī*
3 A mixture of *Kaseruka, Madhulika* and *Śrngātaka*
4 *Pāyasa* prepared with rice, mixed with the juice of the eggs of sparrows, boiled in milk, with honey and ghee

The ointment of the following is prescribed for elongating the genital organ the juice of *Anukantaka* of *Kandalika, Aśvagandhā* etc

For the contraction of the female organ, the ointment of the following is efficacious juice of *Jambu* fruits, *Kokilāksa* fruits and of the leaves of *Vyadhighātaka*

For the expansion of the same, the ointment of the following is prescribed paste of *Sarjaka, Sugandha, Utpala* and *Padma,* mixed together

The paste of the following is prescribed for increasing physical charm leaves of *Tālīsa, Kustha, Tagara* Also efficacious is the oil of the leaves of *Sahadevī, Sārivā, Punarnavā, Kurantaka* and *Utpala* The collyrium of *Aksataila,* the powder of several flowers etc also may be used

For the beautification of hair the extracts of the following are beneficial roots of *Añjanikā Girikarnikā*, *Kākutajā* and *Madayantikā*

With *Madayantikā* one's lips may be reddened With lac-dye, mixed with the sweat from the testicles of a white horse, red lips may be whitened

CHAPTER XXXI

LOVE IN SANSKRIT LITERATURE

From the foregoing pages it may seem that men used to look upon women merely as objects of physical enjoyment If there was any love, it rested on the female body As a matter of fact, however, she did not merely cater to the physical needs of man In ancient India, there was also pure conjugal love This love transcended the body, and was placed on a high pedestal In Sanskrit works, there are copious references to the transformation of gross lust into heavenly love, self-sacrifice at the altar of love, immense suffering for the person loved etc We shall deal briefly with pure love of the opposite sexes, revealed in this literature

In the Rgvedic legend of Purūravas and Urvaśī (X 95) we have an example of sincere love in the mortal king for the celestial mymph Though she forsakes her, yet the king's eagerness for getting her back knows no bounds Though she is unwilling, the king's attachment to her is unbound This legend occurs in the *Śatapatha Brāhmana* too (Finally it was modified by Kālidāsa in his *Vikramorvaśīya* At the hand of the masterly dramatist, the hard-heartedness of the original Urvaśī has been mellowed to a great extent Urvaśī disappears The king makes a frantic search for her This madness of the king is not the result of passion, but of real love It is scintillating in union and heart-rending in separation

In the Dialogue of Yama and Yamī (X 10), the appeal of the sister is incestuous Nevertheless, it is the sincere outpouring of a truly loving heart May be that it betrays youthful fire of passion and lack of restraint , but the girl's sincerity connot be doubted

In the Vedic age, we find earnest solicitude for conjugal love Though the Brahmavādinī Ghosā grows old in her father's house, yet her desire for marriage is keen

In Pāli literature, love-poems are naturally rare In the *Dīghanikāya* the query of Sakka has charm imparted by the

touch of love In it there is glorification of love in the song of the Gandharva and there is sincere longing for union with the beloved

In the *Mahābhārata* legends of Sāvitrī-Satyavān, Nala-Damayantī and Dusyanta-Śakuntalā etc love has been glorified The sanctity and greatness of Sāvitrī's love succeeded in bringing her dead husband back to life It was love that urged Damayantī to court endless suffering with her husband The love of Dusyanta-Śakuntalā has been ennobled in the drama of Kālidāsa

In the *Rāmāyana*, the deep love of Sītā for her husband urged her to leave the pleasures of palace-life and court the privations of forest-residence The depth of Rāma's love for his consort finds expression in the Sundara Kānda where he frantically searches for his abducted sweetheart

In some Purānas, particularly in the *Bhāgavata*, there are descriptions of the love-sports of Krsna According to the Vaisnavas, this love was free from the taints of grossness and vulgarity

In later sanskrit literature, ideal love has been delineated Kālidāsa's brush has painted the pictures of love with various hues In the *Raghuvamśa*, Rāma, knowing Sītā to be *anaghā* (free from sin), performs stern royal duty by banishing her, because public calummy is unbearable to him But, he has banished her from his home, not from the inmost recess of his heart After banishment his heart was rent by grief as a piece of heated iron is broken to pieces by a hammer Suddenly his eyes are filled with tears as the winter moon is with dew The king Rāma might marry another woman Instead the lover Rāma established a gloden image of her

The wails of king Aja at the death of Indumatī (viii) show what invaluable treasure a wife is to her husband

In the *Kumārasambhava* we find that Pārvatī, though a princess, is bent on securing the love of the destitute Śiva Finding no other way she takes to hard penance in which he refrains from eating even the leaves of trees dropping spontaneously This is really self-sacrifice at the altar of love Otherwise, how can one get such a husband and such love? Śiva in disguise tests her in many ways He is convinced that, in her love, there is not a tinge of insincerity

In the above poem, Rati's lament following the death of her husband shows the intensity of conjugal love Among other things, the poet says—with the moon disappears moonlight, with the cloud disappears lightning Thus, even inanimate objects indicate that the wives follow the path of their husbands (Kumāra iv)

The *Meghadūta* reveals the glory of love The Yaksa, in separation from his beloved, cannot stay even for a year He does not find delight in dream, at the sight of pictures etc So, he, in the madness of love, forgets the distinction between the animate and the inanimate, and sends the cloud as his messenger

Bhāsa portrays ideal conjugal love in his *Svapnavāsavadatta* For the good of her husband, whom she loves sincerely, Vāsavadattā agrees to his marrying Padmāvatī She has to remain in disguise in the house of the latter What is more painful is that she has to make arrangements with her own hands for the marriage of her co-wife ! What a supreme sacrifice for a woman ! Though Padmāvatī is her co-wife, yet Vāsavadattā does not bear the slightest jealousy towards her

In the *Abhijñānaśakuntala*, both the king and Śakuntalā fell in love at first sight This is due to the youthful urge of passion When the king got rid of the influence of the curse, he became mad for Śakuntalā whom he repudiated under the influence of curse Śakuntalā also felt miserable in separation Thus both the partners performed penance for their youthful sin The grossness of their passionate love was burnt is the fire of sorrow It was then transformed into heavenly conjugal love The lovers, whose bodies were united by passion, were united in heart by love

Bhavabhūti stands pre-eminent in the glorification of love While describing conjugal love, he says that a matchless thing is acquired with great difficulty It is the same in joy and sorrow, favourable in all conditions, the resting place of the heart , old age cannot take away its pleasure, in course of time due to the removal of shame etc it is transformed into the essence of affection (*Uttara-rāmacarita* i 39)

The dramatist draws a heart-rending picture of Rāma afflicted in separation from his beloved What an intensity of

the husband's love for his wife, how deep is the longing for union ?

In the *Mālatīmādhava* (vi 18) he has sung the glory of conjugal love of Mālatī and Mādhava through the advice of *Kāmandakī* You should know that the husband and the wife are each other's most intimate friends, the symbols of all relations, the significant representations of all desires and are treasures, nay like life itself

The ideal love of Vasantasenā in the *Mrcchakatika* has been discussed elsewhere

The Vaisnavite poems and dramas depict the love of Rādhā and Krsna in various ways Of the poems, the *Gītagovinda* is the most noteworthy There is great depth of love in it

Sanskrit works contain many descriptions of romantic love As instances may be cited Bilhana's *Caurapañcāśikā*, Dandin's *Daśakumāra-carita,* Bāna's *Kādambarī,* Subandhu's *Vāsavadattā* etc

By reducing Cupid to ashes Śiva has spread throughout the world not only the seeds of passion but also the germs of genuine love

APPENDIX

CRIMES AND PUNISHMENTS

The crimes have been divided into the following classes Under each class the main crimes have been alphabetically arranged and the main corresponding punishments noted

A CRIMES RELATING TO MOVABLE PROPERTY

B CRIMES RELATING TO IMMOVABLE PROPERTY

C CRIMES AFFECTING HUMAN BODY

D CRIMES RELATING TO OR COMMITTED BY WOMEN

E CRIMES IN CONNEXION WITH LAW-SUITS

F OFFENCE RELATING TO EDUCATION

G MISCELLANEOUS OFFENCES

A CRIMES RELATING TO MOVABLE PROPERTY

Title of offence	*Punishment*
Asvāmi-vikraya (Sale by one not being the owner)	As in theft If the seller is shown, the buyer shall have no offence If an article is sold without the knowledge of the owner by a member of his family the seller is punishable
Rnādāna	If the debtor complains to the king when the creditor tries to recover the admitted debt by lawful means, the former shall be fined If the creditor tries to recover the debt, which is denied, without the help of the Court, he shall be fined

Title of offence	*Punishment*
Caurya (also called Steya, Apaharana, Granthibheda)	Cutting off of the thumb and the forefinger, fine, cutting of hand, cutting the limbs to pieces, death penalty The punishment depends on the gravity of the offence Death penalty is prescribed for repeated theft Generally it is inflicted after the commission of theft for the fourth time
Interest at rate higher than the prescribed rate	Fine
Non-delivery of an article sold, or Non-acceptance of an article purchased	Fine
Selling an article, sold to one, to another	Fine
Failure to render service after receiving wages	Refund of wages and double the amount as fine

B CRIMES RELATING TO IMMOVABLE PROPERTY

Failure to carry on promised agricultural operations in a land	Fine plus value of the crops that might have been grown
Misappropriation of a land on the produce of which one depends for sustenance	Such a person is an *ātatāyin* who may be killed by the owner with impunity
Causing obstruction on the highway or planting trees there	Fine
Cutting others' trees, destroying fruits etc	Fine

Title of offence	*Punishment*
C CRIMES AFFECTING HUMAN BODY	
Murder with intention	Generally death penalty, for Brāhmana offenders, banishment
Abetment of murder	Half the punishment prescribed for murder
Murder without intention	No punishment
Murder of an *ātatāyin*	No punishment
Assault on vital part of the body	Amounts to murder
D CRIMES RELATING TO OR COMMITTEED BY WOMEN	
Adultery on wife's part	Wife can be killed by husband
Adultery of a woman with a man of inferior caste	Woman to be devoured by a dog or to have ears cut off
Adultery of a man with a woman of same caste	Man to undergo *uttama-sāhasa*
Adultery of a man of higher caste with a woman of inferior caste	Man to undergo *madhyama-sāhasa*
Adultery of a man of a lower caste and a woman of a higher one	Death penalty of the man
È CRIMES IN CONNEXION WITH LAW-SUITS	
Distortion of statements of disputants	Equivalent to theft
Acceptance of bribe by a person connected with administration of justice	Confiscation of property

Title of offence	*Punishment*
Perjury	Fine For a Brāhmana, banishment. For repeated perjury fine, cutting of tongue or death penalty For repeated perjury on the part of a Brāhmana, fine and punishment or destruction of house or dragging through a road in a naked condition
Forgery	Death penalty
Wilful absence for giving evidence	Fine For a Brāhmna, banishment, destruction of house *Note* No punishment if one does not give evidence when such evidence may lead to the death of a member of any of the four castes
Wrong decision by a person connected with trial	Fine and dismissal

F OFFENCES RELATING TO EDUCATION

Not to impart education after receiving money	Return of money plus equal amount as fine

G MISCELLANEOUS OFFENCES

Cheating people by sorcery	Banishment
Use of sorcery or witchcraft for harmful purposes	Fine
Sale and purchase of Brāhmana males or females as slaves	Fine

Sale of a faithful female slave against her will unless the master is in danger	Fine of 200 Panas
Instigating people to take to gambling	Physical punishment
Gambling conducted without king's permission	Branding forehead with marks of dog's foot and banishment
Breach of contract through greed	Banishment
Breach of rules of a union or misappropriation of union's property.	Banishment and confiscation of properties
Non-release of mortgaged property out of greed	Equivalent to theft
Negligence of a partner in a partnership business	Liable to pay compensation
Misconduct or cheating by a partner	Expulsion without due share of profit

GLOSSARY

A. Terms relating to Criminology

The main offences are arranged in the Devanāgarī alphabetical order and their meanings noted briefly The important terms relating to criminology are given with their meanings

Atipātaka Action resulting in great sin Adultery with one's mother, daughter or daughter-in-law For a woman, illicit relation with her son, father or father-in-law

Adhyakṣa Superintendent of a Department

Anupātaka 35 kinds of acts resulting in comparatively light sin, e g perjury, adultery of certain types

Anvādhi Mortgaging a property, mortaged by one, to another

Abhicāra . Magical charms or rites designed to do harm to others and even to cause their death

Arthī Plaintiff

Avakraya

(i) Sale of a pledged article

(ii) Purchasing an article without paying the price

(iii) Purchasing an article by paying partial price

Avasvapnikā An incantation by which a thief used to make one asleep

Avicitra A kind of death penalty In it the person, sentenced to death, is beheaded by a sword

Ācarita See Carita

Ātatāyin Dangerous enemy Such enemies are incendiary, poisoner, one coming with a weapon to kill, robbing one of such an amount that one starves, one who takes away another person's land, abductor of one's wife

Ādhi Mortgage The thing pledged as security while borrowing money

Ārakṣaka Guard or Police Magistrate

Āryajārā Appears to denote a Śūdra woman who was used by a member of a higher caste as his concubine

Udāsthita A mendicant or monk, fallen from his own occupation, working as a spy

Udyānamosaka Poacher

Upadhi

(i) A ruse adopted by the creditor for recovering a debt

(ii) Things, borrowed by a creditor or festive occasions, not returned

(iii) Things, entrusted by the debtor to the creditor for delivery to others but appropriated by the creditor

Upapātaka 49 acts resulting in comparatively lighter sin, e g cow-killing, adultery etc

Upāṃśudanda Secret punishment

Ubhayavetana A spy, paid by one king, serving another king in order to supply information about the latter to the former

Aikāgārika A kind of thief

Karmānta Factory

Karmābhigraha Arrest of a person after considering the connected circumstances

Kākinī A quarter of a Pana which is a coin equal in value to 80 cowries

Kula A union having power to try cases relating to its members

Kāpatika A student trainee or assistant serving as a spy.

Krtya. A royal officer disowning allegiance to the king or having a seditious attitude

Kriyā Proof or evidence in a lawsuit

Krītānuśaya A title of dispute arising from the fact that the buyer in not satisfied with the quality of nature of the thing purchased

Gajāsya A kind of tunnel like the face of an elephant

Gana

(1) Union of armed men having the same vocation

(2) Union of Brāhmanas

Gūdhājīvin Those who commit offence by earning living by clandestine means

Gulma Perhaps corresponding to a modern police station or outpost

Grhapatikavyañjana A cultivator, unable to earn a living by his own occupation, working as a spy with government help

Gopa Head of five or ten villages

Grāmakūta Village headman

Candrārdha A tunnel of the crescent shape

Carita A method, adopted by the creditor, for recovery of debt In it, he squats at the door of the debtor or ties his own wife, son or cow in the house of the debtor

Caritrabandhaka A kind of mortgage In it, the creditor may advance a big amount after keeping a small pledge or the debtor may pledge a highly precious property for a small debt In such cases, the high reputation of the creditor or debtor is the guarantee

Citra A kind of death penalty in which the person sentenced to death is killed by impalement or burning

Coragrāha Probably a royal officer arresting thieves

Corarajjuka A class of royal employees It was perhaps his duty to tie a thief with a rope

Cauroddharanika Probably a royal employee who catches thieves

Cauroddhartr Do

Jhaṣāsya A tunnel of the shape of the mouth of a fish.

Tattvābhiyoga Complaint against an offender after getting evidence or suffering loss directly through his action

Tāpsavyañjana A hypocritical ascetic serving as a spy

Tālodghātinī An incantation used by a thief to break a lock

Tīksna A class of spies

Tusnīṃdanda Silent punishment

Dandanāyaka Police Chief

Dandapāśika

(i) Perhaps the royal officer responsible for punishing a person in a criminal case

(ii) Watchman

Dandabhogika Perhaps identical with Dandapāśika (q v)

Dandapārusya Too severe punishment for a light offence, assault

Dāndika Police Officer

Daśāparādhika A royal officer who used to examine ten kinds of offences

Divya Ordeal accepted as proof in the absence of the usual human proofs

Dauhsādhasādhanika One who catches turbulent robbers

Dauhsādhika Same as Dauḥ-sādhasādhanika.

Dyūta Gambling with dice

Dharma Means of persuading a debtor to pay off the debt

Dharmasthīya Like modern lock-up In it an accused under trial and a person convicted are confined so long as the fine is not paid

Dhvajinī Boundary fixed by trees like flagstaffs

Nāgarika Police Chief or Head of (Nāgarika) prisons

Naigama

(i) Union of merchants

(ii) Union of men going abroad for trade

Naidhāni Boundary marked by subterranean things

Pātaccara A kind of thief

Pana A coin equal in value to 80 cowries

Piśunavetrika The royal employee who drives away undesirable elements with a cane

Pūga Union of horsemen or elephant-riders

Pūrnacandra A tunnel like the full moon used by thieves

Pranidhi . Spy

Pratibhū Surety

Pratirodhī A kind of thief

Pratyarthī Defendant

Pradestā Police Magistrate

Prādvivāka Judge

Prayojaka An abettor of murder

Phanimukha An implement, having the shape of a snake's face, used by a thief

Bhayavarjita Boundary marked with the consent of both the parties

Bhāsā Plaint

Matsyinī Boundary marked by a river or tank filled with fish

Malimluca Thief

Mahādauhsādhanika Same as Dauḥsādhanika (q v)

Mahāpātaka Grave sin These are murder of a Brāhmana, a Brāhmana's drinking wine, theft of gold belonging to a Brāhmana, adultery with preceptor's wife, association with the above offenders

Mahāmātriya A place of confinement In it perhaps convicted persons, unable to pay fine, were kept confined

Mānava A kind of robbers.

Miśra A kind of death-penalty in which the person sentenced to death is killed after cutting off his hands, feet and other limbs

Mosaka Thief

Yogacūrna A kind of magic powder, used by thieves to bring people under control

Yogavartikā Magic lamp used by thieves

Rasada A spy administering poison

Rāstrapāla A high royal functionary whose duty was perhaps like that of *Samāhartā* (q v) to some extent

Rūpābhigraha Arrest of a person in possession of stolen articles

Śaṃkābhigraha Arrest on supicion Though there is no evidence, the person concerned is arrested after observing his suspicious conduct

Śaṃkābhiyoga Complaint against a person on suspicion

Śuddha A kind of death-penalty which may be of two kinds viz *vicitra* and *citra* or *vicitra* (q v)

Śrenī Union of craftsmen like weavers

Sattrī One ostensibly an orphan, but really a spy

Sabhika One who keeps a gambling house

Sādhyapāla Bailiff

Sañcāra A class of roving spies

Sāmanta Neighbour, king of a neighbouring state

Samāhartā Collector General Besides collecting revenue he used to observe misconduct of the public and anti-state activities

Sambhūyasamutthāna Partnership business.

Samvidvyatikrama Breach of contract

Saṃsthā A class of spies They used to stay at one place

Samāhvaya Animal-betting

Sāhasa Violent crime before people, stealing things meant for public use, adultery with other's wives

Setu A channel for the flow of water

Steya Theft

Sthānapāla Perhaps, guard of a place

Sthānika Head of an urban ward or district

Vākpārusya Abuse, harsh speech

Vicitra Same as *Citra* (q v)

Vivāsana

(i) Banishment

(ii) Stripping one of clothes

(iii) Demolishing one's house

Vaidehakavyañjana A merchant, having lost his livelihood, serving as a spy

Vyavahāra

(i) Social intercourse , matrimonial relation etc

(ii) Judicial proceedings or trial Removal of doubts in a dispute with the help of documents

Vyāghravaktra A kind of tunnel like a tiger's face

Vrāta

(i) Gang of men holding various weapons

(ii) Union of people of different callings and of different castes, earning a living by physical force

Vrātya Probably a section of non-Aryans who disturbed the religious rites of the Aryans

B 'Terms relating to sex-life

Difficult and technical words, occurring in the works on erotic science and literary works, are listed in Devanagarī alphabetical order with corresponding meaning

Ajjukā Courtesan

Añcita A kind of kiss

Anangāvaha Exciting passion

Aniyoga Unfit for sexual union

Anekaparigrahā A harlot attached to many men

Anyā A kind of heroine , another's wife

Anyoparuddhā A prostitute perhaps kept for enjoyment by a particular person

Aparigrahā A harlot not attached to any man

Apavīrya One devoid of sexual vigour

Apahastikā A kind of patting or caressing a woman

Abhisārikā A woman who finds out her husband or asks him to meet her at a temple etc

Ayantrita A kind of sexual union

Ardhapīḍitaka A kind of sexual intercourse

Avalambitaka A mode of sexual union

Aśva A class of men

Āryajārā An appellation of a Śūdra woman It seems that Śūdra women used to be in the keeping of the members of the higher castes

Āsyamaithuna A sex-act into the mouth of a woman

Āhārya A kind of coupulation

Indrāṇī A kind of sexual union

Indriyakṣaya Loss of sexual vigour

Ucchūnaka A kind of tooth-marks It it, red scars appear

Ujjvala Same as *Mādhuryarasa*

Utpīḍitaka A kind of sexual union

Utphullaka A kind of copulation

Uttaracumbana Kiss on the upper lips

Udghṛṣṭaka A kind of embrace caused by mutual rubbing in a crowd

Ūrūpagūhana A kind of embrace in which one presses the thighs of another.

Ekaparigrahā A prostitute attached to one man

Auparisṭaka Sex-act into the mouth of an eunuch

Karkaṭa A kind of sexual intercourse

Kalahāntarita Separated from husband due to quarrel and hence repentant

Kalāgoṣṭhī A meeting for display of arts (?)

Kartarī An act in sexual intercourse

Kākila Oral gratification of sex-desire

Kāmakalā Erotic art.

Kāmakāra Forcible enjoyment of a woman, rape

Kāmatantra Erotic science

Kāmapiśāca Passion conceived as an evil being

Kāmipratyavara A mean lover

Kilakiñcita Mixture of smile, dry weeping, anger due to joy at union with the lover

Kīla An act in sexual union

Kukundara The space between the lower addomen and the thighs

Kuṭṭamita Feigning anger inspite of joy

Kumbhadāsī A female attendant for drawing water A kind of prostitute perhaps kept as an attendant

Kūrpāsaka Sort of bodice for a woman

Krtakarati False sex-enjoyment

Krtagranthika A mode of a man's seizing his partner's body in sexual union

Krtrima A mode of sex-act

Kolacarva A kind of tooth-marks of a man on the body of his partner

Kaupīna Secret spot in the the body or its cover

Kaumāraka Youngster

Kriyānispatti Completion of sex-act

Krauñca-rasāyana-yoga Āyurvedic medicine counteracting old age

Ksīnendriya One whose sex-power is weak

Ksīranīra A kind of close embrace in which the bodies of the partners are united like milk and water

Ksetraja A son begotten by one on the wife of another

Khandābhraka . Tooth-marks like bits of cloud .

Khanditā A woman angry at the sight of nail-marks or tooth-marks of another woman on the body of her husband

Khalarata Sexual union with an uncultured woman

Gatitcka Kiss of an experienced man In it there is mere touch

Ganikādāsī A kind of prostitute

Gānikya Name of a group of courtesans

Gāndharva Love-making, music A form of marriage in which marriage takes place by mutual consent

Gūdhaka A kind of tooth-marks In it there is no scar

Gūdhaja A son begothen by a man and a woman during the absence of her husband

Goyūthika A mode of sexual union

Cakra A kind of embrace

Cālitaka Directing one's attention to another direction

Citrinī A class of women

Chāyācumbana Kissing a shadow

Jaghanotseka Heaviness of buttocks.

Jaghanopagūhana A kind of embrace in which one presses the buttocks of another

Jarākaupīna Old age shameful like the private parts of the body

Jñātireta A son begotten on a woman by a kinsman excepting her husband's brother

Jrmbhitaka A kind of sexual union

Tilatandulaka A kind of embrace in which one presses the thighs and the arms of the other

Trtīyā Prakṛti A human being having the characteristics of both a male and a female

Divāvihāra Sexual union by day

Dustagāndharva Reprehensible means of love-making

Devadāsī A girl engaged in a temple for dancing

Dvandvarati Secret love

Dhenuka A mode of sexual union

Nakula A kind of embrace

Nagnikā A girl before the commencement of the menstrual flow

Nateraka Son of a dancing girl or actor

Nimittaka Nominal kiss by an inexperienced man

Nivṛttakāmatantrā A woman who has stopped sexual enjoyment

Patākāveśyā A harlot attracting people by hoisting a flag at a convenient place

Padmāsana A kind of sex-act

Padminī A class of women

Parāvṛttaka A kind of sex-act

Pārāvata A kind of embrace

Pīthamarda Associate of the hero in a drama He helps the hero in securing a woman fit for enjoyment

Pīdita A kind of kiss

Pīdītaka

(i) A kind of sex-act

(ii) A kind of embrace in which a woman is lightly pressed against a wall

Punarbhū Remarried widow

Pumścali A harlot running after a man

Paiśāca A form of marriage in which a girl is enjoyed when she in asleep or intoxicated and then married

Potārata Enjoyment of a low class woman

Prakāśavinastā An unchaste woman who goes astray after openly breaking the family tie

Pragalbhā A kind of heroine She is fully experienced and bold

Pracchannapumścalīga One who secretly visits prostitutes

Pranaya Present indicating love

Pranīta A son begotten on a married woman by a person other than her husband

Pratibodhaka Kissing a woman in sleep by a man

Baddhamusti A mode of tooth-mark, looking like a coral

Prasrtaka A kind of patting or caressing a woman

Prahanana Patting a woman by a man in sex-act

Preksanaka A show

Prositayauvanā A woman whose youth is gone

Baddhamusti A mode of seizing a woman in sexual union

Bandhakīposaka One who attracts people by beautiful damsels and carries on business by arranging for sexual union

Bāhyarata External sex-act

Bandhakī A woman who, being unable to repay debt, has been enslaved by the creditor According to some, a harlot passionately attached to many people

Bādavaka A kind of sex-act

Bindumālā A kind of tooth-marks

Bibboka Disregard of desired things due to pride

Bhagayoga Same as *latāsādhana* (q v)

Bhāva The first agitation in the unagitated mind of a heroine

Bhāvabahiskrta One for whom there is no love

Bhāvaśuddhi Purity of mental attitude or love

Bhugnaka A kind of sex-act

Makarayasti A stick indicating a man The image of a shark was placed on it

Manimālā A kind of tooth-marks

Madanakarma Love

Madanatantra Erotic science

Madhukosaka A drinking vessel

Madhura Same as *Mādhurya-rasa*

Madhyā. A kind of heroine, slightly experienced

Manasijakadana Grief caused by love

Mādhurya-rasa Erotic sentiment.

Mukhabhagā A woman satisfying the carnal desire of a man by her mouth

Mugdha A kind of heroine who is inexperienced

Musti A kind of patting of woman by man

Mrgī A class of women

Mrdu A kind of kiss

Mottāyita Expression of affection by ear-scratch etc on remembering the lover

Yauvanakarma Rejuvenation

Yauvanabibhrama Gestures indicating passion in youth

Rajoparodha Menopause

Rativyāksepa Obstruction to sex-enjoyment

Ratiśaundīrya Skill in sex-act

Rahonaipunya Skill in sex-act

Rāksasa A form of marriage in which a man forcibly carries away a girl and then marries her

Rāgavat A kind of sex-act

Rūpadāsī A kind of prostitute

Latāvestitaka A kind of embrace in which a woman clasps a man like a creeper.

Latāsādhana A Tāntric rite centring round the female organ.

Lalātikā A kind of embrace in which the partners lightly press each other's face, eyes and forehead

Laingaksobhana An act in sexual union

Vadavā A class of women.

Vādavaka A mode of sexual union

Vāramukhyā Chief of prostitutes

Vasakasajjā Waiting being well dressed for the husband

Vicchitti Tastefully putting ornaments etc designed to enhance one's beauty

Vijrmbhitaka A kind of sex-act

Vita Paramour, passionate rogue Associate of a king or characterless young man Accomplice of a prostitute

Vidūsaka Associate of a king in a drama, exciting laughter by dress or speech

Vidruma A type of tooth-marks made by a man on his partner's body in sexual union

Vipralabdha A woman deceived by the lover's non-arrival at the fixed place

Vyavahita A mode of sex-act

Visakanyā A poisoned woman with whom an enemy is induced to cohabit and die as a result

Vibhrama Putting ornaments on wrong places due to hurry at the arrival of the lover

Viddha An act in sexual intercourse seemingly painful

Viddhaka A kind of embrace seeming to be caused by a sudden push

Vipralabdhā Waiting in vain for the lover's arrival at the fixed place

Vrksādhirūdhaka A kind of embrace in which a woman seems to kiss a man as if by climbing a tree

Vrsa A class of men

Venudaritaka A kind of sex-act A mode of a man's seizing the woman's body in the sex-act

Śamkhinī A class of women

Śabarotsava. Part of the festivities on the Daśamī day of Durgā-pujā In it people, wearing leaves and smeared with mud, abuse one another

Śaśaka A class of men

Śilpakārikā Ostensibly engaged in craft, but secretly a prostitute, demi-monde

Śuddha A class of sex-acts

Śūlac taka A kind of sex-act

Śaundika Distiller or seller of wine

Samkīrna A class of sex-acts.

Samkrānta Kissing an image

Samghātaka A mode of sexual union

Samdamśika A seemingly painful act in sexual union

Sama A kind of kiss

Samakrsti A mode of a man's seizing the woman in sex-act

Samarata A kind of sex-act

Samputaka

(i) Kiss on both lips simultaneously

(ii) A mode of sexual union

Samprayoga Sex-act

Sambhalī A harlot procuring passionate men

Sahodhaja A son of a woman who was pregnant before marriage

Sādhāraṇī A kind of heroine, prostitute

Śiśnadeva

(i) One who plays with one's genital organ

(ii) One whose deity is the phallus

Sītkāra A woman's sound indicating pain or pleasure in the sex-act

Subhaga A man having sexual vigour

Stanāṃkura Nipple

Stanāliṅgana Embrace of a man by a woman with her breasts

Strīkitava Abduction of women

Strī-saṃgrahaṇa Adultery, incest, rape etc

Sthirarata A mode of sexual union

Spṛṣṭaka A kind of embrace which looks like ancidental touch

Sphuritaka Tremulous kiss by an inexperienced man

Svayaṃgraha Rape

Svīyā A kind of heroine, one's own wife

Svairiṇīja Son of an unchaste woman

Haṃsa A kind of embrace

Hastinī A class of women

Hāva A heroine's movements of the brows and eyes etc indicating her desire for union with the lover

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CHRONOLOGY

The dates of the principal works, used as source-books in this work, are as follows In this matter, the opinions of the specialists in the respective fields have been taken as authoritative

B C

C 2500 (or 2000)-750—Origin and evolution of present *Ṛgveda-saṃhitā* According to Winternitz)
After Ṛgveda Saṃhitā—present *Atharvaveda*,
Between the period of the completion of the collection of Ṛgveda Saṃhitā and the rise of Buddhism (According to Winternitz)—Brāhmanas

C 600-400—Oldest Dharmasūtras (According to P V Kane)

486—Siddhārtha's attainment of Buddhahood (According to Cantonese tradition)

C 4th cent—Pānini
—*Arthaśāstra* of Kautilya

C B C 300-100 A D—Dharmasūtra of Śaṃkha--Likhita

C B C 200—2nd cent A D—*Manu-Smṛti* (present form according to Kane)

A D

C 100-300—Yājñavalkya-smṛti
—Visnu-dharmasūtra

C 1st cent (1st half)—Hāla, author of *Gathāsaptaśatī*

C 1st cent—2nd cent or earlier—final form of *Rāmāyana* (Acc to Winternitz)
—*Avadāna-śataka*

C 100-400—Nārada-smṛti

C 300—Upper limit of the time of composition of the early extant Purānas

C 3rd cent—Vātsyāyana's *Kāmasūtra*

C. 3rd or 4th cent—*Kāmandakīya Nītisāra*

C 4th cent —Bhāsa (That he ıs pre-Kālıdāsa ıs certaın)
—Fınal form of the *Mahābhārata* (Accordıng to Wınternıtz)

C 4th cent —Kālıdāsa

C 4th -5th cent —Bharata's *Nātyaśāstra* (Accordıng to some)

C 5th -6th cent —Orıgın of basıc Tantras
—Varāhamıhıra's *Brhat-samhıtā*

C 400-600—*Katyāyana-smrtı* (on Vyavahāra)

C 6th cent —Śūdraka's *Mrcchakatıka*
—(mıddle) lower termınus of the date of the *Pañcatantra*

634—Aıhole Inscrıptıon Mentıons Kālıdāsa Therefore lower termınus of the tıme of Kālıdāsa

7th cent —lower termınus of the age of composıtıon or compılatıon of the extant early Purānas
—Harsa's dramatıc trılogy, vız *Ratnāvalī, Prıyadarśıkā, Nāgānanda*
—Bānabhatta's *Kādambarī, Harsacarıta*
—Subandhu's *Vāsavadattā*

4th cent —Dandın (*Daśakumāra-carıta*)

C 800—Lower termınus of date of composıtıon of the *Bhāgavata-purāna*

8th -9th cent —Dāmodaragupta (*Kuttanīmata*)

9th -10 cent —Rājaśekhara (*Karpūramañjarī*)

10th cent —lower termınus of the tıme of composıtıon of the monologue plays collectıvely called *Caturbhānī* Accordıng to some, these were composed between 350-200 B C Others thınk that these were composed after the *Nātyaśāstra* of Bharata
—Dhanañjaya (*Daśarūpaka*)
—*Jasaharacarıu*
—Śrīdharadāsa's *Saduktı-karnāmrta*
—Kokkoka's *Ratırahasya*
—Śamkhadhara's *Latakamelaka*

11th cent —Bilhana's *Caurapañcāśikā*

—Kṣemendra

—*Karakandacariu*

—Vijñāneśvara's *Mitākṣarā* comm on the *Yājñavalkya-smṛti*

1063-82—*Kathāsaritsāgara*

12th cent —Kalhana's *Rājatarangini*

1100-1150—Jīmūtavāhana's *Dāyabhāga*

C 13th cent —Yaśodhara (Commentator of the *Kāmasūtra*)

C 10th -14th cent —*Nāgarasarvasva of Padmaśrī*

14th cent —Viśvanātha's *Sāhityadarpana*

—Jyotirīśvara's *Pañcasāyaka*

—Siṃhabhūpālā's *Rasārnava-sudhākara*

—Kaviśekhara's *Dhūrta-samāgama*

—Mādhavācārya's *Parāśara-mādhavīya* comm on the *Parāśara-smṛti*

1400—lower terminus of the age of composition or compilation of later Purānas

1446 (d)—Devarāja (*Ratiratna-pradīpika*)

15th -16th cent —Rupa Gosvāmin (*Ujjvala-nīlamani*)

16th cent —Kalyānamalla (*Anangaranga*)

—Kavitārkika (*Kautuka-ratnākarā*)

1577—Vīrabhadra (*Kandarpa-cūdāmani*)

17th. cent —Sāmarāja Dīksita (Dhūrta-nartaka)

18th cent —Ali Akbar Shah (*Śrngāra-mañjarī*)

C 19th cent —According to some, *Śukranīti-sāra*

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